Curia Comitatus Rediviva.

OR,

THE PRATIQUE PART

Of the County-Court revived,

Fully demonstrating its antiquity and proceedings from the Originall to Execution, and all manner of actions lying in it.

Also an easie and plaine method for the keeping of the Court. Attachments and Distresses at large explained, Returnes of Writs which do remove suites out of this Court, into superiour Courts, Presidents of Precepts; both Originall and Iudiciall; to which is added some select Presidents of Declarations and Pleadings.

With an exact Table of all the particulars in the book.

By

W. GREENWOOD φιλομαθ.

Ipsæ etiam leges cupiunt ut jure regantur.

LONDON,

Printed for *John Place*, at *Furnivalls* Inne gate, and *William Place* at *Grayes* Inne gate *Holborn*, 1657.

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To the Reader.



IND READER,

Conſidering the utilitie and profit a peece of this nature would produce to the Countrey, preſt me forwards (out of profound and authentick Authors) to demonſtrate the antiquitie, juſtneſs, and Iuriſdicti-

on

on of this Court; for the more the Country knows it, and the practice thereof, the more they will love and affect it; *ignoti nulla cupido.* I cannot comprehend how any one part or theame may be more useful, to and for the Countrey, and consequently more generally expetible and wished for, than the practicall know-

ledge of this Court, for who almoſt is there within its juriſdiction, that is not, or may not ſue and be ſued in it? ſo that here they may read and underſtand how their cauſes doe proceed, and what, and how far the power & force of every precept, and warrant doth extend; and what the fees are; and that they may, as with a touch-

ſtone

ſtone try and examin the actions and proceedings of their Atturneys. I muſt confeſs my early experience (in this diſcours) in compariſon to ſome of the more grave and ancient practicers, is but as a drop of water to an overflowing bucket. Therfore if I have omitted any thing in the practice, or comitted any error in the method,

method, I hope (*Juvenilis mea ætas conſiderata*) I ſhall without difficulty obtain pardon, and that they will (*mitiſſimo aſpectu*) take it, with all its faults, in good part. And if this conduce to the benefit and advantage of the Country, it is all that is hoped for, and expected by

Your aſſured friend,

W. G.



Curia Comitatus.

OR

The Practique part of the County Court,&c.

Of the originall of Shires, Shiriffs, and the inſtitution of this Court.

BEfore I anotomiſe the practiſe of this Court, I thought it convenient to produce it from its originall or prototype, *quia origo rerum attendenda.* And firſt, what the word Shire ſignifies.

Shire, is a Saxon word ſcyꝛa, and cometh of ſhiꝛan (*id eſt*) *partiri*

to divide, as ſayth Maſter *Lambert* in his explication of Saxon words, *verb. centur.* And Maſter *Cambden* in his *Britania* reporteth, that *Alfred* (a Saxon) King of *England*, was the firſt that divided this Commonwealth into Shires, thoſe Shires into Ridings, and thoſe again into Wapentacks or Hundreds, *&c.*

The Republique being thus diſunited or diſſected into Shires, every Shire is entirely governed by one Officer called a Sheriff, or Shireeve, *Vice-comes*; being compounded of theſe two Saxon words, ſcyn, *viz. Satrapia*, a Shire, *&* ꝑeue, *viz. Præfectus* a Governour of the Shire. Maſter *Cambden* thus deſcribes his Office: *Singulis vero annis, nobilis aliquis ex incolis proficitur, quem vice-comitem quaſi vicarium comitis & noſtra lingua Shireffe, viz. comitatus præpoſitum vocamus.*

Vicount unde.

And he is called Vicount, *a Vice-comite*, which cometh from our Conquerours the Normans, as Sheriff from our Anceſtors the Saxons.

The aforeſaid King, at the diviſion of,

of the Kingdom into Shires or Counties, inſtituted this Court called the County Court, and eſtabliſhed Juriſdiction in it; granting power and authority to the Sheriff to hear and decide ſuch matters as by juſt cauſe of appelation (either for Law or Equity) ſhould be brought unto him. This Court of the whole Shire (then called Scirezmote, that is to ſay, the aſſembly of the Shire, was then (as alſo now) holden once every month, upon a day certain, the month being computed according to 28. dayes in the month, and not according to the Calendar. Of its antiquitie and juriſdiction, you may read more recorded in the Statute of *Magna Charta. cap.* 35. Likewiſe, it may be ſearched further in the Laws of *Edgar*, the Saxon King, *viz. Let no man ſeek to the King in matter of variance, unleſs he cannot find right at home: But if it be too heavy for him, then let him ſeek to the King to have it lightned.* The very like whereof in effect is to be ſeen in the Laws of *Cannus* the Dane, ſometimes

County Court when inſtituted. *Lambert.*

Lam. arch.

King of this Realm; out of which Laws may be gathered four things: Firſt, that every man had means, and was authorized to ſue in this Court, in their own Shire or County; that no man ought to ſue out of the County, or to draw his Plea from thence without good cauſe: both which things do plainly appear in the Letter of this Law. Thirdly, that the King himſelf had a high Court of Juſtice, wherein it ſeemeth that he ſate in perſon: as theſe words do demonſtrate, Let him not ſeek to the King, *&c.* And laſtly, that the ſame Court of the Kings did judge, not onely according to meer right, and Law, but alſo after equitie and good conſcience. And after this order, and in theſe two Courts, was all Juſtice adminiſtred. This Court continuing (untill the time of *William* the Conqueror, and ever ſince during the times and raigns of the antient Kings) and doth yet continue (in manner) the ſame forme, and ſubſtance that it then was, (and will do in deſpite of thoſe ſycophants, that have had

their

their *primum mobile* from it, and now endeavour its ſubverſion, that vipo-rous brood of Birds, that have ſo much defiled their own Neſt, that the whole Country laughs at their folly, and that the Pleas ought no more to be taken from it, now in our dayes (without cauſe) than they ought then to have been; which may evidently be proved by thoſe antient Writs of *Pone*, *Recordare*, Writ of falſe judgement, *& accedeas ad curiam*, which are yet in uſe to this day, and to this onely end to remove ſuits (upon cauſe) out of this Court into Superior Courts. But becauſe this requireth great ſearch of Records to make any further progreſſion (whereunto I have no acceſs) I muſt leave it to ſuch whoſe abilities are more able, and can better travail in that ſo intricate a path.

This Court is no Court of Record, but onely a Court Baron, therefore Pleas holden in this Court by Plaint, nor Pleas holden by Writ of Juſtices, are not taken as matters of Record, for thoſe Pleas are holden by reaſon

This Court no Court of Record.

ſon of the Court, which the Sheriff holdeth by reaſon of his Office.

Why inſtituted. This Court (as *Dalton* reporteth in his Office of Sheriffs) was ordained for the Sheriff to hold Plea, there for particular or private matters (under fortie ſhillings) between partie and partie.

Coo. inſt. 3. par. cap. 55. It holdeth no Plea of Debt or damages to the value of fortie ſhillings or above, becauſe a Fine is due thereby to the Lord Protector, yet if the Debt be fortie ſhillings or above, and the Plaintiff will acknowledge in his Declaration the receipt of ſo much, as to bring it within fortie ſhillings, in this Caſe the Plaint is good.

And of Debt, Detinue, Treſpaſs, and other Actions perſonall above fort ſhillings, the Sheriff may hold Plea by force of a Writ of Juſtices to him directed, for that is in nature of a Commiſſion to him, and is not returnable. Neither doth this Writ alter the nature of the Court, for therein the Sheriff is not Judge, but the Suitors, yet all judgements ſhall be

Suitors Judges.

pronounced

pronounced by the Sheriff.

This Court may be kept at any place within the County, at the pleaſure of the Sheriff, but not out of it.

To this Court, all perſons dwelling within the County, owe ſuit by reaſon of their reſiance.

No fine can be impoſed in this Court upon any offender, becauſe it is no Court of Record. No Fine.

But a man may be amerced for a contempt, or a diſturbance of the Court, in the preſence of the Court. Amercement.

This Court will entertain no Suits for Charters of Land, or for Inheritance, or for Free-hold of Land, or for any titles to Land, or to make ſeveral plaints upon one entire debt by bond, or treſpaſs, *vi & armis*, or actions touching life, nor actions to cauſe one to render an account. What actions will not ly in this Court.

The Office of the County Clarke.

THe Sheriff being elected (before the next County day after his election

election) he ought to be very diligent in deputing and constituting a County Clark, such a one as is sufficient and able to keep the Court, that no corrupt dealing be in it, as he will answer the contrary: and that he be very skilfull in entring the proceedings in it.

He ought to enter no plaints (except in case of Replevins) out of Court, but in full County, *sedente curiâ*, yet the course is otherwise at this day, and (as it seems) good enough, verifying the diverb, *communis error facit jus.*

He cannot execute the Office of a County Clarke, and practice as an Atturney both at one time, it being prohibited by the Statute of .1 *H.* 5.4. He cannot act any thing without the assent of the Suitors; if he do, an action of trespass lyeth against the Sheriff.

He must be carefull in deputing honest able and sufficient men, as Bayliff, for the executing of the Precepts issuing out of the Court.

He must make sufficient Precepts after

after the plaints entred (but not before) againſt the Defendants, directed to his Bayliffs, to attach or warn the Defendants to appear at the next County Court, and anſwer the Plantiff; and if there be any default in the ſaid Bayliffs in the execution of their Office according to the tenor of their Precept, then they are to forfeit 40 ſhillings, and to be convicted thereof by the examinations of the Juſtices of Peace, or any of them.

The County Clarke and Plantiff, upon complaint of the party grieved, may be examined by one Juſtice of Peace, concerning the taking or entring of plaints in the County Court, and booke againſt the Statute: If thereby the Juſtice find any fault or offence committed, that ſhall ſtand for a ſufficient conviction and attainder without any further inquirie or examination. And the ſaid juſtice muſt certifie the examination within a quarter of a year into the Exchequer, by the Statute of 11. *H.* 7. *cap.* 15.

At the adjourning of every Court he

he muſt appoint a day certain for the next Court, to the intent the Countrey may know at what time they may reſort thither to hear the Lord-Protectors writs of Exigent and Proclamations read.

The Office of a Coroner in this Court.

A Coroner is one of the Principall Officers of this Court, being choſen in it (by a writ *de Coronatore elegendo*, directed to the Sheriff) by the Free-holders or Suitors in open and full Court, and is publiſhed there, and after the Sheriff is to return and certifie into the Chancery the election of every ſuch Coroner and their names; likewiſe the County Clarke muſt there adminiſter to the Coroner his oath for the due execution of his Office.

The Coroner being thus choſen and ſworn, he is to ſit there with the Sheriff at every County Court to give judgment upon Outlawries, which judgment ſhall be given and pronounced

nounced by him in the 5th County, and there the Sheriff is to return the Outlawrie with the Exigent: But by this judgment no Goods are forfeited before the Outlawrie appear of Record: neither ſhall ſuch an Outlawrie diſable the partie.

Exigents and Proclamations are to be proclaimed 5. County dayes one after another, and once in the open Seſſions, and once at the Pariſh-Church-dore, where he doth or did lately dwell, that he appear, or elſe that he ſhall be Outlawed. And if Proclamation be made 5 County dayes, and at the 5th County day the Defendant appear not, then the Coroner ſhall give judgment that he ſhall be out of the protection of the Lord Protector, and out of the ayde of the Law. *F.N.B.* 163. But before I conclude this Chapter, let me give you in brief, why a man is ſaid to be Outlawed, and a woman wained; *viz.* A man is ſaid to be Outlawed, becauſe he was ſworn to the Law: and now for his contumacy he is put from the Law, and ſaid Outlawed,

Exigent & Proclam. to be proclaimed 5. County dayes, *&c.*

F.N.B. ſo. 395.

as

as it were, *extra legem poſſitus*; but a woman is not ſo, but ſhe is wained, and not Outlawed, becauſe ſhe was never ſworn to the Law.

If a writ of diſcharge of the ancient Sheriff be delivered to the County Clarke, ſitting in the County Court, the authority of the ſaid Sheriff (although abſent) ſhall preſently ceaſe.

Of Atturneys in this Court.

IT was objected to me, that no Atturney could legally practice in this Court, and that every man ought to proſecute his own cauſe himſelf: but I ſhall give him a compendious anſwer with an Epitomy of the Statute of *Weſt. 2. cap.* 10. that every man which oweth Suit to the County Court, may make a generall Atturney to proſecute and follow his Suits in all Pleas: and an Atturney may do every thing in the name, and as the act of him which gave him the authority, as if he did it himſelf: *qui per alium facit per ſeipſum facere videtur:* likewiſe theſe

theſe Statutes following inſtitute Atturneys in the County Court, *viz.* *6. E. 1. cap.* 8. 20. *H.* 3. *cap.* 10. *F. N. B.* 156. I could inſtance many more, but I hope this is ſufficient to ſtop the black mouth of a ſcurrilous antagoniſt.

What Actions may be brought in this Court.

Having precipated my ſelf thus far, before I enter upon the proceedings of the Court; I will demonſtrate the grounds and cauſe of proceedings, and that is, actions, which is the form of a Suit, given by Law to recover a mans right: therefore what actions will hold in this Court, take as follow.

All actions of Debt, either upon an account made by the parties for wages after a hire, ſumms of money owing or due from one man to another, whether by writings or otherwiſe, it is grounded ſometimes by writing, as an obligation, bill, covenant, or other eſpecialitie: ſometimes without

without writing as an arbitrament, receit money lent, parol, contracts or the like.

All actions of detinue, Trover, and Converſion, deceit upon a warranty, a delivery, nuſance, caſe for ſcandalous words, caſe upon *Aſſumpſit*, and other actions of the caſe, as for a dog killing Cattle, abuſing a diſtreſs, ſpoyling my goods, *&c.* Actions of treſpaſs, aſſault and battery, *&c.*

All theſe actions would afford very much matter to treat of at large, (but leaſt it ſhould ſwell beyond its limits) I will referr you to the reading of the Law (in one Volume) learn'dly epitomiz'd by Mr. *Shepheard.*

Within what time Actions muſt be brought.

ALL Actions of Debt grounded upon any lending or contract, as book-debt, without eſpecialty, and for rents in arrear: all actions of treſpaſs, *quare clauſum fregit*, actions of Treſpaſs, Trover, Detinue, and Replevin

31. *Eliz. cap.* 5.

21. Jac: 16.

Replevin for taking away Goods and Chattells, actions of account, all actions of the caſe (except actions for ſlander, which ſhall be ſued, muſt be commenced and brought within ſix years after the cauſe of ſuch action or ſuit accrewed, if the Plantiffe be then of full age, diſcovert, *Compos mentis*, at Liberti·, out of priſon and in *England*; otherwiſe within ſuch time after he becomes ſo, and not after.

All actions of Treſpaſs, for Aſſault, Menace, Battery, wounding and impriſonment, within four years after the cauſe of action, and not after.

All actions of the Caſe for words, within two years next after the words ſpoken, and not after.

Who may bring actions, and who not.

IDiots, mad men, or ſuch as have *lucida intervalla*, ſuch as are deaf and dumb, or any other man, woman or child (except perſons diſabled by Law) being wronged, nay bring the proper action appointed for remedy in S. *Mar. ca.* 6. *fo.* 3.

in that caſe; and all, or any of theſe wronging others may be ſued. And if an Idiot ſue or be ſued, he muſt do it in perſon.

An Infant muſt ſue by *Prochein amy*, and being ſued, muſt defend by Guardian.

A Feme Covert cannot ſue but with her Husband.

An Outlawed perſon is diſabled to ſue any action againſt any man in any Court of Law or Equitie, (yet as Executor he may ſue, beeauſe it is not in his own right, but in truſt for another) but any man may ſue him, by *Coo. ſup. Lit.* 128. A man that is attainted in a *Premunire*, may not ſue in any action, *idem.* 129. And a man that is a convict Recuſant is diſabled, ſo long as he ſo continues.

But note, all theſe diſabilities remain during the continuation of the ſame impediment.

No Barretor can maintain any action in this Court, nor have judgement, unleſs it be required by all the Suitors. *Weſtm.* 1 *Cap.* 3.

Of

Of Pledges in this Court.

PLedges are obſolete, except it be for ſuch as live out of the County, or out of the Juriſdiction of the Court, or ſuch as are unmarried, that have no Goods diſtrainable, and it is if theſe be Plantiffs: and if the Defendant ſhould Non-ſuit the Plantiff, and have judgment againſt the Plantiff and his Pledge. I never yet ſaw the form of that judiciall precept, that ever iſſued out to levie the coſts upon the pledges goods.

Of the proceedings in the Court.

BEcauſe I would not have the Country and young practiſers ignorant of the proceedings in the Court, which is the life of practice; I thought it neceſſary to make an abridgment of the terms of Law, now uſed in the proceedings. And firſt of Appearance, becauſe it is the firſt thing done after Goods attached.

Appearance.

The firſt thing the Defendant in any Action or Suit is to do, is to appear, and ſhew himſelf in perſon, or by an Atturney in the Court to anſwer the Action and defend the Suit.

Essoyne. He may also appear by an Essoyne which doth delay the cause a Court day longer; (The common Essoyne is *de male vener*) and if he do not appear the next Court, then it passeth by default, Judgement entred, and Execution issues out against his Goods and Chattels. But after the Defendant hath once appeared in the Court by an Atturney, there shall be no Essoyn allowed.

Duces tecum. But if he appear neither by an Atturney, nor by essoyn, then further process issues out against his Goods and Chattels, *viz.* the Precept of *Duc. Tec.*) and Attachment, and Distress upon Attachment infinite, untill he do appear.

Declaration. After the Process executed, the Plantiff is to appear and file his Declaration, to shew his cause of Action, or matter of complaint, in which must be shewn who complaineth, and against whom, for what matter, how, and in what manner the action grew between the parties, and at what time and place the wrong was done; and in conclusion he must averr and proffer

proffer to prove his Suit, and ſhew the damage he hath ſuſtained by wrong done unto him. Speciall care ought to be had that it be drawn in manner and form, yet by the Statute of 36. *E.* 3. *cap.* 15. a Declaration ſhall be good, if it have matter of ſubſtance, though the terms be not apt; however to avoyd doubts, and that the Attorneys may not altogether depend upon uncertainties, let them be diligent in taking right and due inſtructions from their Clyents, and inform themſelves of every *punctilio* which may be materially incident to the caſe, that ſo they may know what manner of action is moſt proper to be brought on the behalf of their Clyents. *Modo & forma.* *Nota.*

In ſome caſes manner and form is chiefly to be looked at, but in other ſome not altogether ſo materiall. As if an action of Debt be brought of the ſale of a horſe for 5 *l.* (where the bargain was for two horſes) the Defendant pleads that he oweth him nothing in manner and form: the Jury ought to find for the Defendant, for that, that the bargain was for two 21. *E.* 4. *fo.* 12. *Modo & forma.*

horſes for 5 l. ſo manner and form there is materiall, and parcell of their charge, and ſo it is in every caſe, where the action varies from the bargain or ſpeciall matter.

Modo & forma.

But if an action of the Caſe be brought by the husband alone, upon an *Aſſumpſit* to him by *R.* the Defendant ſaith, he did not aſſume in manner and forme, and the Plaintiff gives in evidence of an *Aſſumpſit* made to his wife, and his agreement to it afterwards, this is good, and manner, and form is not materiall.

27. *H.* 8. *fo.* 29.

Or if a Treſpaſs were done the 4th. day of *May*, and the Plaintiff declareth the ſame to be done the 5th. or the 1. day of *May*, when no treſpaſs was committed, yet if upon Evidence it falleth out that the treſpaſs was done before the action brought, it ſufficeth, 19. *H.* 6. 47. 5. *E.* 4. 5. 21. *E.* 4 66. And *Lutt.* ſaith, that the Jury may find the Defendant guilty at another day then the Plaintiff ſuppoſeth, for the Law of *England* reſpecteth more the effect and ſubſtance of the matter, than every nicitie

nicitie of form and circumſtance: *apices juris non ſunt jura.*

Note that in actions of Debt upon *Emiſſet* for wares, for money or other things lent, upon an *in ſimul computaſſent*, actions of Treſpaſs, Battery, or upon the Caſe, *&c.* you are not tyed to lay the certain day; but you may lay it any time after the cauſe of action accrewed.

A declaration is ſometimes called a Count, as Count in Debt. *Kitch.* 281. Count in treſpaſs, *Brit. cap.* 26. Count in an action of treſpaſs upon the caſe for a ſlander, *Kitch.* 251. But a Count it is more properly uſed in Reall than Perſonall actions: And a Declaration more applyed to Perſonall than Reall. *F. N. B.* 18. *a.* 60. *D. N.* 71. *a.* 191. *c.* 217. *a.* Count.

If after Proceſs executed the Plantiff do not appear and file his Declaration, and the Defendant do appear upon ſuch default, the Plantiff is nonſuited, and the Defendant may enter Judgment, and have an Execution for his coſts. Non-ſuit.

In every caſe where the Plantiff

may have coſts againſt the Defendant there, if the Plantiff be nonſuit, or a verdict paſs againſt him, the Defendant ſhall have his coſts, as in treſpaſs, debt, covenant by ſpecialty, or upon contract, detinue, accounts, actions upon the Caſe, or upon the Statute for perſonall wrongs, 23. *H.* 8. *cap.* 15.

Emparlanc. After the Plantiff hath appeared and Declaration filed, upon the appearance of the Defendant, Emparlance is to be entred: Emparlance is, when the Defendant, being to anſwer the Suit or Action of the Plantiff, deſireth ſome time of reſpite to adviſe himſelfe the better what he ſhall anſwer, being nothing elſe but a continuance of a Cauſe till a further day.

Continuance. I had forgot to lay open unto you this word *Continuance*, had not the foregoing piece put me in minde of it, and it is this; After a Suit is begun and the Plaintiff hath declared, he muſt continue his ſuit from Court day to Court day, or elſe the adverſe party may take advantage of it, and this is called a *Continuance*, being but

but only a prorogueing of a ſuit from time to time, to keep it in being; And this is by the Act, or Order of the Court, and ſometimes by the agreement of the Atturneys of both parties.

This Rule, or *dies datus* is when further day is given to the Plantiff to put in his Declaration, or to the Defendant, to put in his anſwer: the time given is uſually 14. dayes, or more or leſſe according to the order of the Court, and the agreement of their Atturneys. Rule.

The next Court after the filing of the Declaration, the Defendant is to put in his Anſwer, which he pleadeth and ſaith in Barr, to avoid the Action of the Plaintiff, either by confeſſion and avoidage, or denying the materiall parts thereof. Anſwer.

If iſſue be not joyned upon the anſwer, then the Plantiff is to file his Replication to the anſwer of the Defendant, which muſt affirm and purſue his Declaration. Replication.

Then the Defendant muſt put in his Rejoynder to the Plantiffes Replication, which muſt purſue and confirm his anſwer; for every Re- *Rejoynder.*

plication ought to have theſe two properties ſpecially, that is, it ought to be a ſufficient anſwer to the Replication, and alſo to follow and enforce the matter of the bar.

Surrejoynder. If the parties be not at iſſue by reaſon of ſome new matter diſcloſed in the Defendants Rejoynder that requireth anſwer; then may the Plantiff Surrejoyn to the ſaid Rejoynder, if there be cauſe, but it falleth out very ſeldome. This Surrejoynder is a ſecond defence of the Plantiffes Declaration oppoſite to the Defendants rejoynder.

Nota. When the Declaration, Anſwer, Replication *&c.* are defective in reſpect of ſome circumſtance of time or place *&c.* it may be remedied by conſent of the Court, or parties, or by a motion to the ſteward.

Not informed. *Non ſum informatus*, is a formall anſwer of courſe made by an Atturny, whereby he is deemed to leave his Clyent undefended, and Judgment paſſeth for the adverſe partie.

Nil dicit. It is a failing to put in an anſwer to the Declaration of the Plantiff, (in any

any action) by the day assigned, which if a man do, Judgment shall pass against him, because he saith nothing to the contrary.

To an action of Debt upon specialty. { Not his Deed. } Generall issue.

To an action of Debt for money lent, *&c.* { He owes nothing by the Country. }

To a Bond for performance of Covenants upon an Indenture, or an Arbitrament. { Not his Deed or not guilty. }

To an action of the Case upon an Assumpsit. { He did not assume. }

To an action of Trespass. { Not guilty. }

To an action of Assault, and Battery, and Slander. { Not guilty. }

To a Contract without Deed, the Plea is payment, or an Obligation made for the Debt, *&c.* To an Obligation, the Plea is payment, or a new Obligation taken for the Debt, *&c.* But to plead payment to an Obligation is no Plea without an acquittance: For an Obligation, or other matter in writing may not be discharged

Pleas specialy to be pleaded. Obligation.

discharged by an agreement by word but by writing: *unumquodque dissolvitur, eo modo quo colligatur.*

Debt. To an action of Debt he owes nothing by the Country, or by the Law, or paid.

Against Executors or Administrators. If the action be brought against an Executor or Administrator, the ordinary Plea is, that he never was Executor, or hath fully Administred *&c.*

Non ag^. If the suit be upon a Deed, or contract without Deed, that he was within age when he made the Deed or contract.

Woman covert. If it be against a woman, that she was covert: that is to say, had a husband when she made the Deed or contract.

Arbitrament. If upon an Arbitrament, that there was no Arbitrament legally made, or that he hath performed the award.

Trespas damage feasant. If upon an action of Trespas, Damage Feasant, that the beasts came in by the default of the inclosure of the Plantiff, or that he hath little of common there *&c.*

Rent. If upon an action brought for Rent,

Rent, that there is no Rent in arrear, *&c.*

To an action of Detinue, that he doth not detain the thing ſued for: A releaſe, or a gift to him by the Plantiff, or that he did tender the thing ſued for before action brought, that the Defendant did deliver it to him as pledge for ten ſhillings, which he hath not paid, *&c.* Detinue.

To an action of the Caſe for Slanders not guilty, or juſtifie the words. Slander.

Caſe upon a warranty, that he did not warrant, *&c.* Warantie.

Upon a ſpecialty, Plead, conditions performed, by Threats, Dureſs, Impriſonment. Debt.

Upon a Demiſe, not demiſed. Demiſe.

Upon an Account, as receiver, never receiver: he ought not to render an Account, *&c.* Account.

To treſpaſs, not guilty, an Arbitrament, tender of amends before the Action brought, *&c.* Treſpaſs.

If divers men do a treſpaſs, and one makes a good accord, this will diſcharge, and be a bar to all the reſt. *Cook 9. 79.* *Nota.*

If

Free-hold. If Free-hold be pleaded, the Court in that cauſe can proceed no further. There are diverſe pleas to an action of treſpaſs, ſome of one nature, and ſome of another, as juſtification *&c.* If the Defendant have matter of juſtification or excuſe to plead, he muſt be ſure to plead it ſpecially, for if he plead the generall iſſue, *viz.* not guilty, it will be found againſt him; But now by the late Act, made the 23. of *Octob.* 1650. the Defendant may plead the generall iſſue of not guilty, or ſuch like generall plea, and give the ſpeciall matter in Evidence.

Nota. *Et hoc paratus eſt verificare.* Every plea muſt be offered to be proved true, by ſaying in the plea; *And this is he ready to verifie*, and this is termed an averment.

Et de hoc ponit ſe ſuper patriam. If tender of iſſue come on the Defendants part, the form is, *And of this he putteth himſelf upon the Country.*

Et hoc petit, quod inquiratur per patriam If on the part of the Plantiff it is *And this he prayeth may be inquired of by the Country.*

If iſſue be taken upon theſe Pleas, and a Jury thereupon warned to appear

pear to try them, the Jury appearing, the parties may have their Chalenges.

Chalenge of Jurors.

CHalenge is ſaid to be where there is evident favour, as kindred, *&c.* the Juror of Aliance ſervant beares malice, and hath ſome Action againſt chalenger: Juror a goſſipe of the Plantiff; Juror maſter to the Plantiff: the Juror eate at the Plantiffes coſt, or take money for his charges. If the Juror was choſen arbitrator for one party, but otherwiſe where he was choſen indifferent for them; The Sheriff or Bayliff which make the pannell, is of the Plantiffes kindred: thoſe who have been attaint of falſe Oath, or were ſeen on the Pillory, or againſt whom there was Judgement of life or member; Thoſe who pretend to have ſome right in the thing demanded: the Juror Outlawed, if the Record be ſhown: Juror attaint of conſpiracy: the Sheriff being Plantiff, *&c.*

21. *E.* 4 *fo.* 11. *&* 63. 20. *Aſſ.* 11. 2. *H.* 4. *f.* 16. 4. *E.* 4. *f.* 1. 2. *H.* 4. *f.* 14. 13. *H.* 4 *f.* 14. 22. *E.* 2. *Charl.* 177. 8. *E.* 3. *f.* 69. 3. *H.* 6. *fo.* 24. 9. *E.* 4. *fo.* 49. *Britton fo.* 134. 11. *H.* 4 *fo.* 40. 33. *H.* 6. *fo.* 55. 18. *H.* 8. *f.* 2. 8. *H.* 6. *f.* 60.

Having now brought the Jury to the

the Bar, and that they prove all honeſt men, being ſworn let them ſtand to the Bar, and hear their Evidence.

Nota. If a full Jury do not appear, as many as make default, may be amerced: If the verdict find matter incertainly, or ambiguouſly, it is inſufficient, and no Judgement ought to be given thereupon; as if an Executor plead *plene Adminiſtravit*, *viz.* fully Adminiſtred of all the Goods and Chattels which were of the Teſtator: and iſſue is joyned thereupon, and the Jury find that the Defendant hath Goods within his hands to be Adminiſtred, but find not of what value, this is incertain, and there inſufficient.

17 E. 3. 47. 18. E. 3. 48. 22. E. 3. 2. 18. E. 3. 56. 35. E. 3. *judg.* 58. &c. *Hil.* 25. *Eliz. Mic.* 28. & 29. *Eliz. inter Gomerſall & Gomerſall &c.*

A Verdict that findeth part of the iſſue, and finding nothing for the reſidue, this is inſufficient for the whole, becauſe they have not tryed the whole iſſue wherewith they were charged; But if the Jury give a Verdict of the whole iſſue, and of more &c. That which is more is ſurpluſage, and ſhall not ſtay Judgement: for *utile per inutile non vitiatur*, but

but neceſſary incidents required by the Law, the Jury may find.

The manner of keeping the Court.

THe Sheriff at the firſt County Court, which ſhall be after his election and diſcharge of the old Sheriff, muſt read his patent and writ of aſſiſtance, and nominate his under-Sheriff, the County Clarke, and 4. Deputies (at the leaſt) of Replevins for the eaſe of the County

Then enter the ſtile of the Court, in this manner, *viz.*

Y. ſ. The ſtile of the Court.

The firſt County Court of *I. B.* Eſq; Sheriff of the County aforeſaid, held at the Caſtle of *Y.* on Munday the 7th. day of *July*, 1656.

Then command the Bayliff to make Proclamation 3. times *O. yes &c.* Procl.

All manner of Perſons that have any thing to do at the County Court holden here this day, before *I. B.* Eſq; Sheriff of the County of *Y.* come forth and give your attendance. Procl.

Command the Bayliff to make Proclamation

Proclamation again, *O yes, &c.*

All manner of Persons keep silent, and heare the Lord Protectors writs of Exigent and Proclamation read.

A Coroner is to be there then present, to pronounce Judgement of Outlawrie, against those that do not appear upon the Exigent and Proclamation at the 5th. County.

Procl. Command the Bayliff the 3d. time to make an *O yes &c.*

Essoyns and proffers (before the Court 3. times) for this day. And then say; If any man will be essoyned, or enter any Plaints, let them come forth, and they shall be heard.

Plaint. Then enter your plaint in this manner.

A. B. against *C. D.* of a plea of Debt.

Then call the Plantiff thus.

A B. appear, or thou loseth thy plaint; 3. times.

If he appear by an Atturney, then enter his warrant of Atturney, *viz.* the 2. first letters of his name, over the name of the Plantiff, and then

Decl. file his Declaration.

Then

Then call the Defendant.

C. D. appear and anſwer *A. B.* in an action of Debt, (or as the caſe is) or thou forfeits thy Goods diſtrain'd, and further proceſs will be awarded againſt thee. If he appear, then enter his appearance, and an Imparlance, to put in his anſwer (to the Plantiffes Declaration) the next Court.

Anſwer. When the Defendant hath put in his anſwer, If the Plantiff joyne iſſue, they may proceed to tryall the next Court day (except they proceed further by Replication, Rejoynder, *&c.*)

Ve. fa. If it be at iſſue, ſend out a *venire facias*, to ſummon the Jury, and the *Habeas Corp.*

Then enter on the head of the pannell thus.

Jury betwixt *A. B.* Plantiff and *C. D.* Defendant, in a Plea of Debt.

When they are brought to the Barre, command the Bayliff to make Proclamation *&c.*

You good men that be impannel'd to try the iſſue between *A. B.* Plantiff, and *C. D.* Defendant, anſwer to

your names; every man upon the first call, upon pain and peril that shall fall thereon.

If 12. appear, then swear them one by one, in this manner.

Oath. You shall well and truely try this issue, between partie and partie, according to your Evidence, so help you God.

And as they are sworn, enter by every mans name *Jur.* that is to say *juratus est*, he is sworn.

Being all sworn bid them stand together to hear their Evidence.

Then swear the Witness.

Oath. The Evidence that you shall give to this Inquest, shall be the truth, the whole truth, and nothing but the truth, so help you God.

Then let the Jury depart from the Bar, to agree upon their Verdict.

At their return, command the Bayliff to call every one by their names, and count them.

Then ask them if they be all agreed on their Verdict:

Jur. Ya.

Who shall say for you?

Jur. The Foreman. Then

Then call the Plantiff, *A*, *B*, appear or thou looſeth thy plaint, 3. times ask the Jury if they will ſtand to their Verdict;

Jur. Yea.

Whether do you finde for the Plantiff, or for the Defendant?

Jur. For the Plantiff.

What damages?

Jur. 2^d.

What coſts of Suit?

Jur. 2^d.

Hearken to your Verdict, this you ſay, you finde for the Plantiff, and aſſeſſe, damages, 2^d. and coſts of Suit 2^d. ſo ſay you all?

Jur. Yea.

Then bid the Plantiff pay the Jury.

The Court being ended, adjourn the Court to another day to be kept, commanding the Bayliff to make Proclamation, O yes, *&c.*

All manner of Perſons, which have any more to do at this Court, let them come forth, and they ſhall be heard, otherwiſe they and every one elſe, may depart for this time, and keep their hour here on Munday *Adjornment.*

the 4th. day of *August* next by 9. a clock in the morning, *&c.*

Now the Court being done, and the Defendant condemned by Verdict, then (Judgment being enred) a *fieri facias* shall be awarded to make levie of his Goods, and thereupon the Defendants Goods shall be taken, praised and sold, to satisfie the partie Plantiff, and if the Defendant have no Goods, whereupon levie may be made, then the Plantiff rests without remedie in this Court.

Of Distress.

COnsidering the many lacrymable wrongs the Country hath sustained by these Locusts, that litigious generation of men, a clamorous company, *qui ex injuria vivunt*, seminaries of discord, worse than any poler by the high way side, *monstra hominum*, *rabulas forenses*, irreligious harpies, scraping griping Catchpoles, monopolizing Bayliffs and corrupt Practisers, and how much the ignorant people are abused and deceived, yea,

yea, many times (as the experience of many will inform us) ruined and utterly undone by them, they being the ſole cauſes of thoſe ignominious aſperſions caſt upon the Court. Really, the advantage that it would produce to the Common-wealth is inexplainable, if the Statute of the 1. *H.* 5. *cap.* 4. were obſerved, that is, that Sheriffs, Bayliffs, one year, not to be in that Office in 3. years after, becauſe by their continuall being in that Office, they grow ſo cunning, that they are able to deceive the Sheriff, and ruine the whole Country; Therefore, that the Country be not altogether ignorant of their ſeeming authorized actions: I will declare what, and when they may diſtrain; and what, and when they may not.

But firſt, to let you know what a diſtreſs is.

A diſtreſs is either ſaid to be reall (that is) when Land diſtrained upon a *Grande cape*, or a *petit cape*, of which we have nothing to ſay here: or it is ſaid to be perſonall, where moveable things are diſtrained: and

Broo. 146. *Fiecbes & ley* 135. *Coo. ſup. Litt.* 97.

this is that we are to ſpeak unto, therefore a diſtreſs is where one doth take & diſtrain the beaſts cattle and other things of another man in ſome ground or place for Debt, Rent, or other dutie behind, or for ſome wrong or damage done.

The Sheriff nor his Officers cannot break a mans houſe in the night time to execute any proceſs, or to do any miniſteriall act: for the Law giveth no colour to break a mans houſe by night.

No diſtreſs can be made in the night, but for damage feaſant.

The Bayliff may attach a man by his Goods, citing him to appear, and anſwer ſuch a day, at ſuch a mans Suit, in ſuch a Court, and for ſuch a cauſe; Or he may onely give the Defendant warning (in the preſence of 2. others) to appear ſuch a day, in ſuch a Court, and at ſuch a mans Suit, *&c.* it is good enough; and if an Attachment be made, it muſt be of ſuch Goods (of the Defendants own proper Goods) as are moveables, *viz.* by meere Chattels Perſonalls

ſonalls, which may be forfeited by Outlawrie, and not immoveables.

A Bayliff cannot ſever horſes joynd to a Cart.

Sheep may not be diſtrained, if there be a ſufficient diſtreſs beſides: No man ſhall drive a diſtreſs out of the County where it was taken.

A diſtreſs may not be impounded in ſeverall p'aces upon payn of 5l. and treble damages.

A man cannot work Goods diſtrained, nor convert them to his own uſe.

The Goods of any man may be taken in any place within the County, in another mans houſe and ground, as well as in his own.

If a Bayliff diſtrain or attach the horſe of a maſter, where the plaint is againſt the ſervant, Treſpaſs lyes for the maſter againſt the Bayliff, for the Bayliff ought to take notice at his peril whoſe goods he diſtrains or attaches, 13. *H.* 4. *fo.* 2. 14. *H.* 4. 24. 11. *H.* 4. 90. and *Doc.* and *Stud.* 139.

After diſtreſs, or attachment made,

if the Bayliff do not return his precept the next Court: Treſpaſs lyeth againſt the Bayliff for the Defendant, and an action of the Caſe lyes againſt him for the Plantiff, for not returning of the precept, 10. *E.* 4. *fo.* 18. 3. *H.* 7. *fo.* 3.

By *Choke*. If one take beaſts in the name of a diſtreſs, he ought to put them in an open pound, for that he which is diſtrained, may give to them ſuſtenance: but if he diſtrain dead Chattels, he may put them where he will, but if they ſpoyle in his default, he muſt anſwer for them 19. *E.* 4. *fo.* 2. *b.*

If Goods diſtrained be put in an open pound, and they dye, it is the loſs of the owner, but if they be put in another place, it is not ſo. 39. *H.* 8. *tit. diſtreſs* 6. He which diſtrains beaſts may put them in a cloſe houſe, if he will give them meat, for the putting of them in open pound, is but to the intent, that the owner may give them meat: 1. and 2. *Phil.* and *Mar. cap.* 12. *tit. diſtreſs*. That no diſtreſs ſhall be driven out of the

Hundred

Hundred, unleſs to the open pound, nor above 3. miles.

Where a man diſtraineth Cattell for doing damage feaſant, or for rent, or ſervice, and put them into the common pound, or into another pound or place, and he who hath property in the Cattle, or other perſon taketh the Cattle out of the ſaid pound, and driveth them where he pleaſeth, he who diſtrained them, may have a writ *de parco fracto*, *F. N. B.* 293. *E.*

A man may not diſtrain for any Rent or thing done for any Land, but upon the ſame Land that is charged therewith; but in caſe where I come to diſtrain, and the other ſeeing my purpoſe, chaſeth the beaſts, or beareth the thing out, to the intent that I ſhall not take it for a diſtreſs upon the ground, then I may well purſue, and if I take it preſently in the high way, or in anothers ground, the taking is lawfull as well there, as upon the ſame Land charged, to whomſoever the properties of the Goods be.

If

If one diſtrain my Goods that are not diſtrainable by Law, I may have a generall action of Treſpaſs, or an action of the Caſe againſt him at my choyce, *Coo.* 4. 94.

If one diſtrain my Kine great with calf, and by driving they loſe their calfes, I may have an action of the Caſe, *F. N. B.* 86.

If Goods be impounded in a cloſe houſe, or ſecret place, ſo that the Defendant cannot come to feed them, and the Goods do periſh for want of ſuſtenance, the diſtrainer muſt pay for them, 33. *H.* 8. *tit. Diſtreſs*, 66.

If the diſtrainer give the Cattell meat in the pound, he cannot compell the owner of the Cattell to pay for this, for the diſtrainer is not compelled by Law to give them ſuſtenance: and if they do agree after the diſtreſs upon a ſumme, yet this is no excuſe, but it is for their deliverance, if they do agree at the time of the diſtreſs taken that he ſhould give them meat, and that he ſhould have *xx* ſ. (or a certain propounded

pounded ſumme) for the ſame, this is a good bargain, 21. *E.* 4. *fo.* 53.

An action of Treſpaſs was brought upon the Statute, that none ſhall be diſtrained by his Cattell in the Plough, as long as any other reaſonable diſtreſs may be had: and the Plantiff declared the taking to be againſt the Statute, and did not ſpecially ſhew that he had other Cattell to be diſtrained, yet it was adjudged good for the Defendant to alledge this, 4. *E.* 3. and 18. *E.* 2.

Stuffe ſent unto a Tayler, Weaver, Fuller, Shearman, Miller, *&c.* ſhall not be diſtrained, for theſe Officers are neceſſary for the Common-wealth, and the like Law is of and in a common Inne.

A horſe that a man rideth upon cannot be diſtrained, *Fitzherb. in reſcous*, 11. *quod nota.*

If a man come into a common Inne, his Goods and Beaſts ſhall not be diſtrained there, becauſe then it would be prejudiciall to the Common-wealth.

Alſo goods and chattels brought into

into a fair or market to be ſould, ſhall not be diſtrained, *per cur. Mich. 7. H. 7. fo. 15. 10. H. 7. fo. 21.*

Windowes, Dores, Tables fixed on a Poſt, a Furnace, Pales, Timber, Boards, fixed on the ground, Glaſſe, *&c.* cannot be diſtrained, nor forfeited by an Outlawrie: but if theſe are not uſed in a houſe, but ſtanders by, then they may be diſtrained, *Mich. 21. H. 7. fo. 13. Paſ. 14. fol. 25. H. 8. fo. 25. Trin. 21. H. 7. fo. 27.*

If a Bayliff come to a houſe to diſtrain, the dores being faſt ſhut and bared, and with his hand through a crevice, or hole, did ſhove the bar, and open the dore, and did take out of the houſe 2. Cowes, in the name of a diſtreſs, and becauſe he did take a diſtreſs in this manner, it was adjudged the diſtreſs to be wrongfull, *Abridgment Fizherb, fo. 296.*

No goods ſhall be diſtrained but the proper goods of the partie, and not pledges, nor yet borrowed goods, *35. H. 6. fo. 25. per. Moyle Juſtice,* And it is not of chattels reall, as a leaſe

leaſe for years, nor of apparrell, 7. *H.* 6. 9.

A diſtreſs made by the ſervant of the Bayliff is good, 27. *Aſſ.* 6. 7.

If a man diſtrain cattel, and they of their own accord come home again to the owner, he which diſtrained them cannot take them again, by reaſon of the firſt diſtreſs, except he doth freſhly follow them, *per Danby Juſtice*, becauſe of the negligence of the diſtrainer, 9. *E.* 4. *fo.* 2.

A horſe cannot be diſtrained while the owner thereof is riding upon him, or leading of him, nor if he be tyed at a Mill, and came thither with griſt, nor a horſe tyed at a mans dore, the owner being gone into the houſe on ſome buſineſs, *Paſ.* 39. *Eliz. Coo. B.* adjudged.

If a beaſt be unruly in the pound, and is like to leape over the pound, it ſeems the diſtrainer cannot juſtifie the tying of him to the pound, nor the fettering of him. *Broo. treſpaſs* 250. 27. *Aſſ. pl.* 64.

None ſhall diſtrain wrongfully upon the penalties provided upon the Statute

Statute of *Marlb. Weſtm.* 1. 16. 3. *E.* 1.

None ſhall procure any to diſtrain another, to make him appear at the County Court, or any other inferiour Court, on purpoſe to vex him; and put him to charge and trouble, on pain, to make Fine to the *Lord Protector*, and to pay the party grieved treble damages, *Weſtm.* 1. 36. 13. *E.* 1.

An ax that is in a mans hand cutting of wood, nor goods that are impounded, and in the cuſtody of the Law, cannot be diſtrained, being diſtrained already, damage feaſant.

If one diſtrain my cattell or goods without any cauſe or colour, that is not good and juſt: or if a man having diſtrained my goods, will not tell me requiring it, and offering to give ſatisfaction for what cauſe he diſtrained them, or if having cauſe to diſtrain, he do diſtrain beaſts not diſtrainable, as beaſts of the Plough, or ſheepe, or if having diſtrain'd beaſts diſtrainable, he after abuſe them, as if being a horſe or an oxe he work it;

or

or being unruly he fetter it, or lay it ſo as it be thereby hurt, or if he put the diſtreſs in an unknown place, that I cannot tell how to come to it, to feede it: or if he take them out of the County, and put them in a pound in another County, or if he diſtrain them in a place not diſtrainable; In all theſe Caſes, I may have an action of Treſpaſs againſt him, *Coo.* 8. 147. *Doct.* and *St.* 112. *F. N. B.* 47.

What goods may be taken upon an Execution &c.

THe Bayliff after Judgment may diſtrain the Defendants goods, and detain the diſtreſs in his hands, in ſafegard till the Defendant hath ſatisfied the Plantiff of the condemnation, 22. *Aſſ.* 72. *Statham,* 11. *Eliz. fo.* 93. *F. N. B.* 165. and 4. *H.* 6. *fo.* 17. action.

Goods taken in Execution muſt be praiſed, and Execution made of them, 27. *Aſſ.* 72.

Where erroneous Judgment is given, the Officer which doth the Execution

Execution is excuſed, 22. *Aſſ.* 64. *Plowden*, 194.

But the contrary, if Judgment be given, that is void or voidable: for where Judgment and Execution is there of a thing whereof they have no juriſdiction, there Treſpaſs lies againſt the Officer, for executing it: but if Judgment be there but erroneous, and ſo not void, falſe Judgment lies, and no Treſpaſs againſt the Officers, *Plowdens Com.* 394.

If after Judgment a man doth ſell his goods, to defraude me of my Execution, and nevertheleſs taketh the profits of them: if it be ſo found, I may have Execution of the goods ſould by fraude, 43. *E.* 3. *fo.* 2. 22. *Aſſ.* 72. 50. *E.* 3.

If the Sheriff open or breake any houſe to do Execution at the Suit of a common perſon, the Execution is good, but the partie, whoſe houſe is broken, may have an action of Treſpaſs againſt him for the breaking of the houſe, *Coo.* 5. 93. 3.

If the Sheriff levie money upon an Execution, and give it to the Plantiff, though

though he never make any return to the Court, it is good enough, *Cook* 5. 90. 4. 67. 11. 40. 20 *H.* 6. 24. 4.

If a man hath a Judgment in this Court againſt the Plaintiff, or the defendant, and the execution is deferred in favour of him, the partie grieved may have a Writ *de executione Judicii* from above, to haſten it. F. N. B. 120.

Goods pawned ſhall not be taken upon Execution, for the debt of him which pawned them, during the time they are pawned, 24 *H.* 8. *Pledge* 28. & 4 *E.* 6. *diſtreſſe* 75.

By *Fieri facias* (or *Levari facias*) the Bayliff cannot break the door or cheſt to take goods in Execution, for if he do, treſpaſs lyes againſt him for the breaking onely, and not for taking the goods in Execution, 18 *E.* 4. *fo.* 4. & 13 *E.* 4. *fo.* 9. by *Choke*, notwithſtanding, 8 *E.* 2. *tit.* Executors 152. contrary.

If a man letteth to farme by the year Oxen, and cattell, and after the

leſſee for years is condemned in an action of debt, theſe cattell and Oxen demiſed, during the terme, cannot, nor ſhall not be taken in Execution for this debt. 22 *E.* 4. *fo.* 10.

A Bayliff cannot pull the latch to open the door, if it be ſhut to make a diſtreſſe, *Coo.* 5. 91. 93. *Dyer*, 67. 224. But if the out-door of the houſe be open, the Sheriff may go into the houſe and take any thing there lyable to the Execution, and being come in at the open door, it ſeemes he may break open any of the inner doores, 18 *E.* 4. 4. *Coo.* 5. 90. *Cook* 4. 74.

Of the Replevin.

CAttell being diſtrained for Rent, &c. the owner muſt go to the County Clerke (or ſome one of the Deputies appointed in the County: for the granting out of Replevins) to have a Replevin directed to the Bayliffs to Replevie them, and the partie muſt be bound in an obligation to the Sheriff, to proſecute his action againſt him, or them that did take the cattell, and

and to make returne of the ſame cattell to the diſtrainer, if he by juſtification or avowrie do recover. And if he purſue it not, or if it be found or judged againſt him, then he that took the diſtreſſe, ſhall have again the diſtreſſe, and that is called the return of the beaſts, and he ſhall have in ſuch caſe a Writ from above *de Returno habendo.*

This Replevin may be removed out of the County into the Common Pleas by a Writ of *Recordare.*

If the goods cannot be taken by the firſt Replevin, then iſſues forth an *alias*, then a *plures*, then a *toties quoties*, and if none of theſe will do, then a *Withernam.*

The ſueing out of a *Withernam* is after this manner.

If the Bayliff return at the next County, upon the *toties quoties*, that he cannot Replevie the cattell, becauſe they are eſloyned, or that he cannot have view of the cattell, then the Sheriff ought to make inquirie if it be true which is returned, and if it be ſo found out, he

ſhall make a precept to the Bayliff in the nature of a *Withernam* to take as many cattell of the other partie. And if the Bayliffs upon the *Withernam* thus awarded, return that the other partie hath not any thing, &c. he ſhall have an *al.* and *pl.* and ſo *ad infinitum*, and hath no other remedy in this Court.

But now to return again to the Replevin, if the thing diſtrained, be put by the diſtraynor in a place where the Sheriff cannot come at them to make a replevie, he may take *poſſe Comitatus*, *viz.* the power of the County, and after demand, beat down the door or place, where they are, to take them, and the owner of the goods ſhall recover double for his loſs what ever it be.

He that hath the Replevin muſt have either a generall or a ſpeciall property in the thing; as of goods pledged or the like, and it muſt be in him at the time of the taking, or otherwiſe he cannot have or maintain the Replevin for them.

Divers mens cattell being taken, they may not joyn in one Replevin, but

but muſt have ſeverall Replevins.

If a man taketh and impoundeth goods, a Replevin may be of more cattell than were impounded, for if a man diſtrain Cowes or Ewes, &c. they have in the pound Calves or Lambes, the Plaintiff ſhall have a Replevin for them all, and by *Littleton* it was adjudged, *Mich.* 8 *E.* 3. That if a man diſtraineth and impoundeth a Sow great with Piggs in the pound, the owner ſhall have a Replevin for the Sow and the piggs.

If cattell be diſtrained and a Replevin is ſued, the defendant doth avow for taking of them damage feaſant, or for rents, cuſtomes and ſervices, and are at iſſue, and after the plaintiff is non-ſuite, or otherwiſe barred, he ſhall looſe his coſts and damages, by the *Stat.* of 7 *H.* 6. *cap.* 5. but by the *Stat.* 21 *H.* 8. it is clear, *Paſc.* 14. *Mar. Dyer.* 141.

Of the nature, and return of those Writs that do remove actions out of this Court into ſuperior Courts.

WRits removing ſuites out of this Court, may be without ſhewing cauſe in the Writ, if the remove be by the Plaintiff: but not without ſhewing good cauſe, if it be by the defendant.

And firſt of a *Recordare.*

Recordare facias loquelam.

A *Recordare* is a writ iſſuing out of the upper Bench or Common pleas, directed to the Sheriff, commanding him to ſend a plaint that is before him in his County Court, without writ of Juſticies into the Court from whence the *Recordare* came, to the end that the cauſe may be there determined. And the Sheriff is hereupon to ſummon the other partie to be in that Court, into which the plaint is to be ſent at a day certain; And of all this, he is to make a certificate under his own ſeal, and the ſeals of four ſuitors of the ſame Court.

Its nature.

The Return.

By

By vertue of this writ to me directed, at my County of Y. held at the Caſtle of Y. within written (ſuch a day, and year) to be Recorded, I cauſed the the Plea, of which within is made mention, which appears in a *Scedule* to this writ annexed, and that Record I have before the Juſtices within written, at the day and place within contayned, under my ſeal, and the ſeals of *W. H. E. R.* &c. four good and legall Knights of the ſame County, of them who at the Record preſent were, & to the parties within written that day I have prefixed, that then they be there in that Plea, as juſt it may be to proſecute, as within to me is commanded.

The Reſidue of the Execution of this writ, appears in a certain *Scedule* to this writ annexed.

At my County Court held at the Caſtle of Y. in the County aforeſaid, ſuch day and year, before *J R. M L. J. S.* and *S D.* four ſuitors of the Court aforeſaid amongſt other matters is contained. The Sce-dule.

Yo.ſſ. *R S.* complaineth againſt *B.* The Plea.

W. of a Plea of Debt. (or as the caſe requires.) *J B.* Eſquire Sheriff *Pledg.* of *Proſec. J S. J D.* in teſtimony of &c.

Or thus. By vertue of this writ to be Recorded, I have cauſed the Plea which is in my County without writ of *Oliver* Lord Protector, &c. betwixt *A B.* and *C D.* concerning the beaſts of him the ſaid *A B.* taken, and unjuſtly detained, as it is ſaid, and that Record I have before the Juſtices within written, at the day and place within contained, under my ſeal, and the ſeals of *E B. S D. R B.* and *J L.* four legall Knights of my County, of thoſe who at that Record preſent were, as it appeareth in a certain Schedule to this writ annexed, according to the Exigencie of this writ.

At my County held, &c. as before. By vertue of this writ in form within written, I came to the Court within written, and in that full Court to be Recorded cauſed the Plea within written; and that Record, as it appeareth in a Schedule to this writ annexed, I have before the Juſtices within

within written, at the day and place within contained, and to the parties within written that day have prefixed, that then they be there, in that Plea, as juſt it may be to proceed as within to me is commanded.

A B. complains of *C D.* in a Plea of taking, and unjuſt detayning of the beaſts of him the ſaid *A. B.* in teſtimony of which matter, *E B. S D. J. W.* and *J R.* four legall men of thoſe who at the Record preſent were in the full Court at the Caſtle of Y. in the County aforeſaid, the tenth day of *A.* the year, &c. to the ſame Record their ſeals ſeverally have put the day and year aboveſaid. The Schedule.

The nature of a Pone.

A *Pone* doth nothing differ from a *Recordare*, but that a *Pone* is alwayes to remove ſuch ſuites as are before the Sheriff by writ of Juſticies, and not by plaint onely; but the *Recordare* is to remove the ſuite that is by plaint onely without writ. *F N. B.* 70. 11.

By

The Return. By vertue of this writ to me directed, I have put before the Juſtices, &c. of the Common Bench at Weſtminſter, the Plea which is in my County by Writ of his Highneſs the Lord Protector of Juſticies, betwixt *A B.* and *C D.* of a Plea of Debt, as it is ſaid, as it appeareth in a certain Schedule to this writ annexed, &c.

The Schedule. At my County Court held at the Caſtle of Y. in the County aforeſaid, on Munday the twelfth of *A.* the year, &c. *A B.* complaineth againſt *C D.* of a Plea of Debt, in teſtimony of which matter, *R L. S R. J O.* and *S D.* four legall men of thoſe who at the Record preſent were in full Court there ſeals ſeverally have put the day and year aboveſaid.

The Plea by writ. *A B.* complaineth of *C D.* of a Plea of Debt. xx l.

Prohibition. A Writ of *Prohibition* is of the ſame nature of a *Recordare*; and a *Pone*, but not now uſed.

Conſultation, or *Procedendo.* Theſe two writs are both of one nature, though the Writ of Conſultation, be *obſolete*, and the writ of

Proce-

Procedendo ſtept up in its place, it lieth where a cauſe hath been formerly removed by *Pone*, or *Recordare*, from this Court to one of the Courts at *Weſtm.* and for want of ſufficient cauſe of removeall is ſent back again, *Fitz. old Natura. Brev.* 50.

The nature of a Writ of falſe Judgment.

A Writ of falſe Judgment lieth where an erroneous Judgment is given in this Court, (being no Court of Record) then the partie grieved by the Judgment, may have this writ, and remove all proceſs of the Suit into the common Bench, and there it ſhall be examined, if it be found erroneous the Judgment, ſhall be reverſed, and the ſuitors of the Court, who gave the Judgment, amerced.

By vertue of this Writ to me directed, to be Recorded, I have cauſed the Plea (which is in my County) together with the proceedings and the Judgment, betwixt the parties beneath The return.

beneath, and to the ſame parties day have prefixed to be before the Juſtices within written, at the day and place within contained, as that writ exacts and requires, which Plea with the proceedings and judgment, appeareth in a certain Schedule to this Writ annexed.

The Schedule. A plaint by writ in the County Court, holden at the Caſtle of *Y.* in the County aforeſaid, on Munday the 23 *d.* day of *August*, the year *&c.* before the ſuitors of the ſame Court, in the time of *I. B.* Eſq; Sheriff of the County aforeſaid, according to the cuſtome and priviledges of the ſame Court, (time whereof the memory of man is not to the contrary) have been uſed and approved of in the ſame.

Writ of Juſtices. At this Court came *A. B.* in his proper perſon, and brought here into Court a writ of his Highneſs the *Lord Protector* of Juſticies, Which ſaid Writ followes in theſe words; Oliver *Lord Protector* of *&c.* To the Sheriff of *Y.* greeting *A. B.* hath complained to us, that *C. D.* upon him the

the ſaid *A. B.* at the Caſtle of *Y.* have made an aſſault, and have beaten, wounded, and evill intreated him, ſo that of his life it was deſpaired, and have done him other wrongs, to the great damage and grieveance of the ſaid *A. B.* and therefore we command you, that you heare the ſaid plaint, and after cauſe them to be therefore brought to Juſtice for the ſame, that I heare no more complaint therein for want of Juſtice, witneſs our ſelves at *Weſtm.* the 10 th. day of *Auguſt* in the year *&c.* and thereupon found pledges to proſecute the ſaid plaint, that is to ſay, *Jo. Doe.* and *Ric. Roe.* and thereupon the ſaid *A. B.* put in his place *S. D.* his Attorney in the plaint aforeſaid, and by his ſaid Attorney required proceſs to be made to him upon the ſame: And it was commanded by the ſaid *I. B.* Eſq; Sheriff of the ſaid County to all, and ſingular his Bayliffes, joyntly and ſeverall, and their Deputies, that they or ſome of them ſhould do Juſtice to the ſaid *C. D.* ſo that he ſhould be and appear at the

Warrant upon the writ.

next

next County Court to be holden at the Caſtle of *Y.* on Munday the 20th. day of *September*, then next in the year aforeſaid, to anſwer the ſaid *A. B.* in the plaint aforeſaid, at which day came the ſaid *A. B.* by his Atturney aforeſaid, and offered himſelf againſt the ſaid *C. D.* in the plaint aforeſaid; and then and there came *I. P.* one of the Bayliffes in the County aforeſaid, of the ſaid *I. B.* Sheriff of the County aforeſaid, and returned the ſaid precept ſo directed as aforeſaid, ſerved and executed on him: and the ſaid *C. D.* did Eſſoyn, becauſe he could not come untill the next County Court, to be holden at the Caſtle aforeſaid, at which ſaid next Court (*viz.*) on Munday the 18th. day of *October*, then next following in the year aboveſaid, came the aforeſaid *A. B.* by his Atturney aforeſaid, and offered himſelf againſt the ſaid *C. D.* in the plaint aforeſaid, and the ſaid *C. D.* then and there came in his proper perſon to anſwer the aforeſaid *A. B.* in the plaint aforeſaid, and put in his place *I. R.* his Atturney againſt the

Eſſoyn.

De malè vener.

the ſaid *A. B.* in the plaint aforeſaid, and by his ſaid Atturney deſired of the ſaid Court, that the ſaid *A. B.* ſhould declare againſt him upon his ſaid plaint: and thereupon the ſaid *A. B.* by his Atturney aforeſaid declared againſt the ſaid *C. D.* upon the plaint aforeſaid, in manner and form following.

Declaration

Y ſſ. *A. B.* by vertue of a Writ of Juſticies by *S. D.* his Atturney complains of *C. D.* of an action of Treſpaſs and Aſſault, for that the ſaid *C. D.* the 10th. day of *October* in the year *&c.* at the Caſtle *Y. &c.* in and upon the aforeſaid *A. B.* did make an aſſault and affray, and him did beat, wound, & evil intreat, ſo that he did deſpair of his life, and other harms did do unto him to the great damage of the ſaid *A. B.* wherefore the ſaid *A. B.* ſaies he is damnified to the value of *xx* l. and thereupon brings this action, *&c.* Whereupon at the ſame Court, at the requeſt of the Defendant, day was given to the ſaid parties in the plaint aforeſaid, till the next County Court, to be holden before

Emparlance.

fore the ſuitors aforeſaid, on Munday the 15th. day of *November* then next following, ſaving to the Defendant *&c.* at which day at the ſaid Court before the ſuitors aforeſaid, holden at the Caſtle of, *Y.* aforeſaid, came as well the ſaid *A. B.* by his Atturney aforeſaid, as the ſaid *C. D.* by his Atturney aforeſaid, and then and there the ſaid *I. B.* Eſq; was removed from the Office of Sheriff of the County aforeſaid, and *R. L.* Eſq; was duely elected, and did enter into the ſaid Office of Sheriff, of the County of *Y.* aforeſaid, whereupon at the ſame Court at the requeſt of the parties, further day was given to the ſaid parties in the plaint aforeſaid, untill the next County Court, on Munday the 13th. day of *December*, then next following in the year aboveſaid, to be holden before the ſuitors aforeſaid, ſaving to the parties *&c.* at which day at the ſaid Court before the ſuitors aforeſaid, holden at the Caſtle aforeſaid, came as well the ſaid *A. B.* by his ſaid Atturney, as the ſaid *C. D.* by his Atturney, aforeſaid, and the

ſaid

ſaid *C. D.* by his Atturney aforeſaid, came and defended the injurie when &c. And the ſaid Attturney ſaid that he was not informed by his ſaid Client of any anſwer for him the ſaid *C. D.* to the ſaid *A. B.* in the plaint aforeſaid to be given, whereby the ſaid *A. B.* did remain againſt the ſaid *C. D.* thereupon without defence, for which the ſaid *A. B.* ought to recover againſt the ſaid *C. D.* his damages by occaſion of the treſpaſs, and aſſault, and wounding aforeſaid, but becauſe it was not known to the Court, what damages the ſaid *A. B.* had ſuſtained by reaſon of the premiſſes: therefore at the next County Court holden at the Caſtle of *Y.* aforeſaid, in the County aforeſaid, before the ſuitors aforeſaid, upon Munday the 10th. day of *January* then next following in the year aforeſaid, it was required by the Oathes of *I W. RS. SG. ML. TP.* &c. twelve good and lawfull men of the County aforeſaid, being preſent in the Court, and in the full County ſworn to inquire what damages the ſaid *A.*

Non ſum informatus.

Jury to inquire of damages.

B. ſuſtained by occaſion of the treſpaſs, and aſſault, and wounding, ſay upon their Oathes, that the ſaid *A. B.* hath ſuſtained damages by occaſion of the treſpaſs, and aſſault, and wounding to *x* l. and for his coſts and charges by him in that behalf expended to 2 d. therefore it was conſidered by the ſaid Court that the ſaid *A. B.* ſhould recover againſt the ſaid *C. D.* his damages and coſts aforeſaid, by the Jurors aforeſaid in ~~forme~~ aforeſaid aſſeſſed, and alſo fourty ſhillings by the Court aforeſaid, to the ſaid *A. B.* by his aſſent for increaſe of coſts to him adjudged, which ſaid damages and coſts do amount to 12 l. and 2 d. and the ſaid *C. D.* in *Mercy &c.* In Teſtimony *&c.*

The nature of an Accedeas ad curiam.

THis Writ iſſues out of the Upper Bench, or Common Pleas, directed to the Sheriff, commanding him to go to ſuch a Court of ſome Lord or Franchiſe, as Court Baron or the like,

like, (being no Court of Record) where a plaint is ſued, or a falſe Judgment is ſuppoſed to be given in ſome ſuit, which hath been in the Court; and by this the Sheriff is there to make record of the ſame ſuit, in the preſence of the ſuitors of the ſame Court, and four lawfull men of the County: and of this he is to make certificate into the Court above, at the day appointed by the Writ: *F. N. B.* 71. *Plowden.* 74. *Finch.* 444.

This writ cannot be had without ſhewing ſome cauſe for the removall of it: as that a *Free-hold* is in queſtion there, or ſome forraign plea is pleaded not triable in that Court, or ſuch like, *F. N. B.* 70. 119.

The County Clarke is to make a warrant upon the writ in this manner *viz.*

Precept upon an *acced. ad cur.*

Y.o. ſſ. *J B.* Eſquire, Sheriff of the County of Y. to the Steward and Bayliff of the Court of Honour of *P.* greeting. I command you by vertue of a Writ to me directed, that you take with you four diſcreet, and law-

full freeholders of the County aforesaid, and that you go to the Court aforesaid, and in full Court there cause the plaint to be recorded, which is in the same Court without writ between *R. S.* and *G M.* of a certain trespas upon the case brought by the said *R S.* against the said *G M.* as is said. And that you certifie the Record to me, so that I may have the same before the Justices of the Common Bench at *Westminster*, from the day of the Holy Trinity, in fifteen dayes under your seals, and the seals of four lawfull men of the said Court of those that shall be present at the Record, and that you prefix the same day to the parties, that then they be there ready to proceed in the said plaint as shall be just, and have you the names of the said four men, & this warrant; fail not hereof, &c. Given under the Seal of my Office this 2^d. day of *June* in the year of our Lord 1656.

By the Sheriff.

Honour of P. The return.] ff. The Court Barron of *G S. J K.* &c. holden at P. for the Honour of P. the 12^th day of *June* in the year of

our

our Lord 1656. Before *J H. T H. J G.* and *R H.* ſuitors of the ſaid Court.

R S. complains againſt *J N.* in a Plea of treſpas upon the caſe, to the damage of xxx *l*. The plaint.

By vertue of this writ to me directed at the Court aforeſaid holden the day and year aboveſaid, in full Court there to be Recorded, I have cauſed the plaint, of which within is made mention, which plaint doth appear above written; And that Record I have returned ſealed with my Seal and the Seals of the aforenamed four lawfull men, being in the ſaid Court preſent at the ſaid Record; And to the parties within written, I have prefixed the day, in the writ ſpecified, that then they be ready to proceed, as juſt it may be in the ſaid plaint, as within to me is commanded.

W O. Steward.

J H. T H. } *Suitors.*
J G. R H. }

Record to be delivered in Court.

By vertue of this writ to me dire-

cted in form within written, I came to the Court within written, and in that full Court to be Recorded I cauſed the Plea within written; and the Record as it appeareth in a Schedule to this writ annexed, I have before the Juſtices at the day and place within contained, under my Seal, and the Seals of *T R.* &c. four legall men of my Shire of thoſe who at the Record preſent were, and to the parties, &c.

Or thus. If the Record be not returned.

By vertue of this writ to me directed, and in my proper perſon having taken with me *R S.* &c. good and lawfull Knights of my County, I came to the Court Baron of *G S. J K.* &c. holden at *P.* for the Honour of *P.* to record the Plea within written, at the day and place within contained, as within to me is commanded; whereupon the ſuitors of the Court aforeſaid at *P.* aforeſaid, in full Court, me the within written Sheriff the ſaid writ there to execute, or as to the ſaid Plea in any manner to intermit, altogether denyed; for which execution of the writ aforeſaid make I could not. *The*

The Return of a Writ for the Election of a Coroner, after the death of another.

AT my County held ſuch a day and year in full County aforeſaid, by vertue of this writ of the aſſent of the ſame County in the place of *R O.* within named, who deceaſed is, I have choſen a Coroner, *viz. J M.* who (as the manner is) hath taken his oath corporall, that he will do and keep thoſe things which to the office of Coroner in the County aforeſaid, belong to be done, as within, &c.

The Return of the Writ of Exigent.

BY vertue of this Writ to me directed, at my County held at the Caſtle of Y. in the County of Y. within written, on Munday, &c. the year, &c. within written, *J C.* and the reſt of the defendants within named (if there be above two in the writ) firſt were exacted and appeared

not at my County of Y. there holden on Munday, &c. the year aforesaid; the aforesaid *J C.* and the rest of the Defendants within named the second time were exacted and appeared not at my County of Y. there holden on Munday, &c. the year aforesaid the aforesaid *J C.* and the rest of the defendants within named the third time were exacted and appeared not at my County of Y. there held on Munday, &c. in the year aforesaid the aforesaid *J C.* and the rest of the Defendants within named, the fourth time were exacted and appeared not at my County of Y. there held on Munday, &c. in the year aforesaid the aforesaid *J C.* and the rest of the Defendants within named the fifth time were exacted and appeared not, And therefore *J C.* and the rest of the Defendants within named by Judgment of *J W.* and *W R.* Gent. Coroners of the Commonwealth of the County aforesaid, according to law and custome of the Common wealth of *England* outlawed are, and every of them is Outlawed.

J B. Esquire, Sheriff.

By vertue of this writ to me directed, at my County held at Y. in the County of Y. within written on Munday, &c. the year, &c. within written, the ſaid *J R.* within named firſt exacted was and appeared not, this Writ, ſo above Indorſed to me delivered was by *J B.* Eſquire, late Sheriff of the County within written, my next predeceſſor, in his going out from his office, as above upon the back of this writ; And at my County, &c. as before. Betwixt two Sher.

This writ ſo above Indorſed, together with the writ of *Oliver*, Lord Protector of &c. of *Superſedeas* to it annexed to me delivered was by *J B.* Eſquire late Sheriff of the aforeſaid County, my next predeceſſor. Or thus.

If it be againſt a woman, ſhe cannot be ſaid to be outlawed, (for the reaſons I ſhewed before) but waived, ſo that the latter part of the return muſt be thus, *viz.*

Therefore according to Law and cuſtome aforeſaid *B D.* waived is.

By vertue, &c. at my County, held on Munday, &c. the ſaid year, &c. within Defect of the Coroner.

within written, the aforesaid *T C.* the fifth time exacted was, and appeared not, and for defect of *N B.* and *R C.* Coroners of the County aforesaid further thereupon to prosecute I could not.

Defect of the County. By vertue, &c. and at my County, &c. and that there were not more Counties in the County aforesaid held, from the day of the receit of this writ, to the day of the return of the same, wherefore nothing done is at present. Or thus,

And therefore in the Execution of this writ farther to be done, nothing acted is.

Superſedeas. By vertue, &c. at my County aforesaid held on Munday, &c. in the year &c. within written, the aforesaid *C D.* the fourth time exacted was, and appeared, and brought forth to me, the writ of his Highness the Lord Protector, &c. of *Superſedeas* which to this writ annexed is: wherefore the Execution of this writ farther to be done, I have superseded altogether.

Or thus. As in the foresaid writ of his High-

. ness

neſs the Lord Protector, &c. of *Superſedeas*, to me is commanded.

As to exact, take Outlawed, or at all moleſt the within named *J R.* by vertue of this writ, to the Juſtices, &c. within written; at the day and place within contayned I certifie, that by vertue of a certain other writ of his Highneſs, &c. to me directed to this annexed, I have ſuperſeded altogether, as by that writ to me is commanded. Orthus.

And beſides *J S.* who hath rendred himſelf to the priſon of, &c. of the Caſtle of Y. whoſe body before the Juſtices within written, at the day and place within contained ready I have, as this writ exacteth and requireth. Rendred himſelf.

And beſides *J C.* who dead is, will not appear, therefore by Judgment, &c. and the aforeſaid *T C.* waived is in preſence of *T R.* and *F W.* Coroners of, &c. of the County aforeſaid. Dead. Waived.

At the County, &c. 1, 2, 3, 4. exacted he was, and hath appeared, and rendred himſelf to the priſon of, &c. of the Caſtle of Y. where ſo ſick he is, Languid,

that

that for fear of Death him before the Juſtices within written, at the day and place withing contained, have I cannot.

The Return of the writ of Proclamation.

BY vertue of this writ to me directed at my County of Y. held at the Caſtle of Y. within written on Munday, &c. the year, &c. within written, the firſt time to be proclaimed I cauſed; and at my County of Y. held at the Caſtle of Y. aforeſaid, in the ſaid County of Y. on Munday, &c. the year, &c. within written, the ſecond time to be proclaimed I cauſed; as alſo at the Generall Seſſion of the Peace held at *Skipton* for the *Weſt-Riding* of the ſaid County, within writen, Thurſday, *viz.* the twelfth day of *September* aforeſaid the year, &c. within written, publiquely to be proclaimed I cauſed, that *J. C.* and all other the Defendants within named, themſelves, to render to the within Sheriffs of *L.* ſo that the

the ſame Sheriffs have their bodyes before the Juſtices within written, at the day and place within contayned; as this Writ exactethand requireth.

Of Proceſſe in this Court.

PRoceſſes of this Court, are either Originall iſſuing out before Judgment: Or Judiciall iſſuing out after Judgment. Originall is a *Diſtringas*, or County warrant, &c. Judiciall proceſſe is onely a *fierifacias*, or Execution, directed to the Bayliff, to levie the debt or damages, and coſt of ſuite recovered, of the goods and chattells of the defendant, or of the plaintiff, if he be Non-ſuite.

And firſt of the Originall Proceſſe, *viz. Diſtringas*, or County warrant; which is a precept iſſuing out for a debt under fourty ſhillings. Its form is as followeth.

J. B. Eſquire, Sheriff of the ſaid County, to all and ſingular my Bayliffs within the ſaid County, and their Deputies greeting. Commanding you, and every of you, that you diſtrain *Yo. L.*

R B.

R B. by his goods & chattells within the ſaid County, ſo that he be and appeart at the next County Court to be holden at the Caſtle of Y. upon Munday the tenth day of *July*, to anſwer unto *S D.* in an action of debt. And that you then and there certifie your doings herein. Sealed with the Seal of my office the ſixteenth day of *June* in the year of our Lord 1656.

By the Sheriff.

If the Defendant do not appear the next Court after the *Diſtringas* executed; then farther proceſſe iſſueth out againſt him *viz. a Duces tecum* to cauſe him to appear. If not upon the firſt *Duces tecum*, he appear, you may have an *al. Duces tecum*, and a *plur. Duc. tec. ad infinitum*, until he appear, and no other remedy here. The form is thus.

Duc. tec. *Y. ſſ. J B.* Eſquire Sheriff, &c. to all &c. greeting I command you and every of you jointly and ſeverally, that you bring with you, and have at the Caſtle of Y. at my next County Court, all thoſe goods and chattells of

of *R. B.* which late by vertue of another precept of mine to you firſt directed, you diſtrain at the ſuit of *S D.* and that you farther diſtrain the ſaid *R B.* by his other goods and chattells in the ſaid County, ſo that he be at the Caſtle of Y. at my next County Court to be holden on Munday the, &c. to anſwer to the ſaid *S D.* in a Plea of debt. And have you then and there this precept. Given under the Seal of my Office the twentieth day of *July* in the year, &c.

If you have your *Diſtringas*, or *Duc. tec.* ſpeciall. Then thus,

J B. Eſquire Sheriff of the County aforeſaid, to all my Bayliffs and their deputies in and through the County aforeſaid; more eſpecially to *J B.* and *R S.* my Bayliffs in this behalf, ſpecially deputed, greeting, &c. then proceed on as in the former. Special.

Of

Of the Writ of Juſticies.

THIS Writ iſſues out of the Chancery, directed to the Sheriff, giving him power to hold Plea in this Court, in actions for fourty ſhillings or above. It is called a Juſticies, becauſe it is a Commiſſion to the Sheriff to do a man Juſtice and right, and requires no return, unleſſe the action be removed by *Recordare*, & then the Writ muſt be returned together with the Record. The forme of the precept upon the Writ is as followeth.

Yo. ff. *G M.* Eſquire, Sheriff of the ſaid County to all and ſingular my Bayliffs within the ſaid County, and to their Deputies greeting. By vertue of writ of Juſticies of *Oliver* Lord Protector, &c. to me directed: I command you and every one of you jointly and ſeverally, that you or ſome of you do Juſtice to *J C.* ſo that he be and appear at my next County Court to be holden at the Caſtle of Y. on Munday, &c. to anſwer unto *E L.* in an action of Debt, and that you or

ſome

ſome of you certifie your doings herein. Sealed with the Seal of my Office the &c.

A Replevin.

IF any goods be taken wrongfully, (as before I have more largely declared unto you,) then the partie grieved, may have a Replevin, which muſt be made after this manner.

G M. Eſquire, Sheriff, &c. to all and every my Bayliffs, &c. greeting. Becauſe *G A.* hath comed before me, and given ſufficient ſecurity to proſecute his ſuite, and make return of his goods if return thereof ſhall be adjudged. Therefore by vertue of my office, I command you, and every of you, that you or ſome of you Replevie and deliver to the aforeſaid *G A.* two kine, which *H H.* hath taken and unjuſtly detained againſt the ſaid *G A.* and his pledges, and alſo that you ſummon, and take ſafe pledges of the ſaid *H H.* ſo that he be and appear at the Caſtle or Y. at the next County Court, there to be Yo. ff.

holden upon Munday &c. to anſwer the aforeſaid *G A.* in an action for the taking, and unjuſt detayning of his ſaid goods: and that you or ſome of you then & there make return of your doings, together with this precept. Given under the Seal of my Office &c.

And if the Cattell be not delivered by vertue of the ſaid Replevin, then the Plaintiff may have an *Alias Replevin*, with theſe words, *vel cauſam mihi ſignifie.* which Replevin muſt be made after this manner.

Alias Repl.

G M. Eſquire, &c. to all & ſingular my Bayliffs, &c. greeting, becauſe *G A.* hath comed before me, and given ſufficient ſecurity to proſecute his ſuite, and make return of his goods, if return thereof ſhall be adjudged, Therefore by vertue of my office I command you, and every of you, as formerly I have commanded you, that you, or ſome of you, Replevie, and deliver to the aforeſaid *G A.* two kine, (without delay you cauſe to be replevied, or the cauſe to me you ſignifie wherefore my Mandates to you therefore directed execute you would

nor,

not, or might not.) which *H. H.* hath taken and unjuſtly detained, &c. as before in the other Replevin.

And if the cattel be not delivered upon this Replevin, nor ſhew ſufficient cauſe why he did not: then the partie may have a *Plures Repl. vel cauſam mihi ſignif.* which muſt be made *verbatim* as the *alias repl.* was made: and if return be made upon any of theſe *Replevins, quod averia elongat. ſunt ad loca ſibi ignot: Ita quod averia ill' pref: G. A. non potuit deliberare*, then the Plaintiff may have a *Withernam*, which muſt be made in this manner.

G. M. Eſq; &c. to all, &c. greeting. a *wither-* because *G. A.* hath comed before *nam.* me &c. (as in the former) I command you and every of you, as diverſe times I have commanded you, that you or ſome of you, replevie and deliver to the ſaid *G. A.* two Kine which *H. H.* hath taken and unjuſtly detained, and doth unjuſtly detain as it is ſaid, and that you upon diverſe my precepts for replevie to be made to you directed, me hath certified, that the ſame

two Kine elongated are to places to you unknown, ſo that view of the ſame have you could not; therefore I charge, and alſo command, that you take in *Withernam* chattels to the value of the ſaid two Kine, of the chattels of the ſaid *H. H.* to be delivered to the foreſaid *G. A.* for the two Kine aforeſaid elongated, and alſo that you ſummon and take ſafe pledges of the ſaid *H. H.* ſo that he be and appear, *&c.* as before in the *Replevin.*

A Capias in withernam.

G. M. Eſq; *&c.* to all, *&c.* greeting. Becauſe you have at my County Court held at the Caſtle of Y. on Munday, *&c.* the year *&c.* to me returned: that by vertue of my warrant to you many times directed, you came to the pound of *H. H.* to the place where the two Kine aforeſaid impounded and detained were by the ſaid *H. H.* and theſe two Kine going and elongated were before your coming out of the pound aforeſaid, to places to you unknown, by the aforeſaid, *H. H.* for which the two Kine aforeſaid, replevie you could not

not; Wherefore it is conſidered by the Court, willing to meet with the mailce of him the ſaid *H. H.* that the beaſts of the ſaid *H. H.* be taken in *Withernam* to the value, *&c.* and theſe to the foreſaid *G. A.* be delivered ſafely and ſurely to be kept, untill to the ſame *G. A.* his beaſts aforeſaid, according to Law you can replevie, and according to the tenor of my mandate aforeſaid. Therefore you and every of you, joyntly and ſeverally I command that you take or, *&c.* the beaſts of the aforeſaid *H. H.* to the value, *&c.* in *Withernam*, and thoſe to the aforeſaid *G. A.* to to be delivered you cauſe, or, *&c.* ſafely and ſecurely to be kept untill, *&c.* and diſtrain you, or, *&c.* the aforeſaid *H. H.* ſo that he be at the Caſtle of Y. at the next County Court to be held on *&c.* to anſwer the aforeſaid *G. A.* the Plea aforeſaid, and the anſwer of this my precept known make you, *&c.* at the next Court, given under the ſeal of my Office, ſuch day and year, *&c.*

Note that when a *Replevin* is gran- *Note.*

ted, there must be a bond taken of him to whom it is granted, or of some other for him, with one or two sureties, to appear at the next Court, and to prosecute his suit with effect, or else it may be prejudiciall both to the granter of the *Replevin*, and to the executioner thereof: and the form of that bond, and condition thereof is this.

An Obligation upon a Replevin.

Know all men by these presents, that we *G. A.* of Skipton in the County of *Y.* gent. and *I. B.* of the same Town and County yeoman, am held and firmly obliged to *G. M.* Esq; Sheriff of the County aforesaid, in the summe of 100 *l.* of lawfull money of *England*, to be paid to the said *G. M.* or his certain Attorney, his Executors or Assigns, to which payment well and truely to be made, we bind us our Heirs, Executors, and Administrators, firmly by these presents, with our seals sealed. Dated the 10*th.* day of *July* in the year of our Lord 1636.

The condition.

The condition of this Obligation is such that if *G. A.* do appear at my next

next County Court to be holden for the County of Y. at the Caſtle of Y. on Munday the, *&c.* next, and do proſecute there with effect his ſuit which he hath commenced againſt *H. H.* for the taking and unjuſt detaining of two Kine, of the goods of him the ſaid *G. A.* and do make return of the goods, if return of the ſame ſhall be adjudged: that then this preſent Obligation ſhall be void and of none effect, *&c.*

The condition, *&c.* that whereas *G. A.* hath obtained from the abovenamed Sheriff, a *Replevin* for the delivery of two Kine and other goods diſtrained, and detained by *H. H.* and others, if therefore the ſaid *G. A.* do proſecute his ſuit upon the ſaid Replevin with effect, and do make return of the goods, if return thereof ſhall be adjudged; and alſo do ſave and keepe harmeleſs the ſaid Sheriff, by reaſon of the ſaid *Replevin*, to him granted as aforeſaid, that then this *&c.* Or thus.

A

A Tolt.

TOlt, comes from the Latin word *tollo, viz.* to take away: It is a precept by which a cauſe depending in a Weapentack Court, or other inferiour Court Barron, may be from thence removed into this Court; The form is this.

Yo. ſ. *I. B.* Eſq; Sheriff of the County aforeſaid, to the Steward, and alſo to the Bayliff of the Hundred, of *H.* greeting; Whereas I am informed that you are favourable, and not equall in a certain plaint, depending before you in your Court, between *W. A.* Plantiff and *R. M.* Defendant: therefore on the behalf of his Highneſs the Lord Protector, and by vertue of my Office, I command you, and either of you, that you take the plaint ſo depending before you in your Court between the ſaid parties, ſo that I may have the ſame at my next County Court, to be held at the Caſtle of *Y.* on Munday *&c.* next in the ſame ſtate and condition, as it is now

now depending before you: and that you give notice to the ſaid parties of the ſame day, that they may be there ready to proſecute the ſaid plaint, as to juſtice and right ſhall appertain, and that in further proſecution of the ſaid plaint in your Court: you altogether ſuperſede, and no further proceede therein, and this, *&c* ſeven under the ſeal of my Office the, *&c.*

Hundred } At the Court Barron, The. re-
of *H. ſſ.* } holden at *W.* within the turn
Hundred of *H.* upon Wedneſday the laſt day of *July* the year, *&c.* in the time of *I. B.* Eſq; Sheriff of the County aforeſaid.

W. A. Plantiff, complains of *R. M.* The
Defendant in a plea of Debt, dama- Plaint.
ges *xx* ſ.

By vertue of this precept to us directed, to be recorded and taken, we have cauſed the plaint depending before us in our Court, betwixt the parties above named, and in the ſame ſtate and condition, as it is now depending; and to the ſame parties we have prefixed and given notice, that they be at the County Court within

within written, at the day and place within mentioned, to proſecute the ſaid plaint, as to juſtice and right ſhall appertain, and as this precept exacts and requires; In teſtimony whereof we have hereunto ſet our hands and ſeals, *&c.*

I.S. } Steward.
T.L. } Bayliff.

Judiciall Proceſs.

JUdiciall Proceſs iſſues out after Judgment, either by default, or *nihil dicit* againſt the Defendant; Nonſuit againſt the Plaintiff: The form of Judiciall Proceſs, or a *fieri facias* is this.

Yo. ſt. *J. B.* Eſq; Sheriff, *&c.* to all and ſingular my Bayliffes, *&c.* greeting, I command you and every of you, joyntly and ſeverally, that of the goods and chattels of *T. B.* you or ſome of you cauſe to be made, as well a certain debt of 30*l.* which *H.S.* in my County Court hath recovered againſt

againſt him; as alſo 13 *s.* and 10 *d.* which to the ſaid *H. S.* in the ſame Court were adjudged for his coſts and charges about his ſuit in this behalf expended, and have you the money at the Caſtle of *T.* at my next County Court, there to be holden upon Munday, *&c.* to render to the ſaid *H. S.* of the debt and damages aforeſaid whereof he is convict, and this given under the ſeal of my Office, *&c.*

I. B. Eſq; Sheriff *&c.* to all and ſingular my Bayliffes, *&c.* greeting. I command you and every of you, jointly and ſeverall, that you or ſome of you levie of the goods and chattels which late were *W. W.* deceaſed at the time of his death, and now remaining in the hands of *I. W.* Executor of the Teſtament of the ſaid *W. W.* and not adminiſtred of as well a certain debt of forty pounds, which *T. L.* in my County Court, by vertue of a writ of Juſtices recovered againſt him: as alſo 20 *s.* which to the ſaid *T. L.* in the ſame Court was adjudged for his coſts and damages, which he ſuſtained

Fi. fa. againſt an Executor.

ſuſtained by reaſon of the detaining of the ſaid debt; If the ſaid *I. W.* Executor of the Teſtament of the ſaid *W. W.* have ſo much goods or chattels in his hands, which were the ſaid *W. W.* at the time of his death, ſufficient to ſatisfie the debt and damages aforeſaid: If he have not ſo much goods or chattels in his hands which were the ſaid *W. W.* at the time of his death ſufficient to ſatisfie the ſaid *T. L.* of the debt and damages aforeſaid; That then you or ſome of you, levie of the proper goods and chattels of the ſaid *I. W.* the damages and coſts aforeſaid, ſo that I may have the ſaid moneys at my next County Court, to be holden at the Caſtle of *Y. &c.* to render to the ſaid *T. L.* the debt and damages aforeſaid, whereof he is convict. and this given under the ſeal, *&c.*

Fi fa. for coſts upon a non-ſuit.

I. B. Eſq; *&c.* to all and ſingular my Bayliffes, *&c.* greeting. I command you and every of you, that of the goods and chattels of *T. O.* you levie 20 *s.* which *S: D.* in the County Court, (according to a Statute provided

provided in that caſe) were adjudged for his coſts and damages, which he ſuſtained in his own defence, in a certain plea of debt, which the ſaid *S. D.* againſt the ſaid *T. O.* of late brought, becauſe the ſaid *T. O.* did not proſecute his ſuit, but was thereupon non-ſuited and convicted: ſo that I may have the money at my next County Court at the Caſtle of *T.* holden on Munday *&c.* next to ſatisfie the aforeſaid *S. D.* of his coſts and damages aforeſaid; and this, *&c.* given under the ſeal of my Office, *&c.*

Fi. fa. upon a Verdict for the Defendant.

I, B. Eſq; *&c.* to all, *&c.* greeting. I command you, that you of the goods and chattels of *T. C.* you levie 40 *s.* which to *P. P.* in my County Court, were adjudged for his damages which he ſuſtained in his own defence, in a Plea of debt, by the ſaid *T. C.* againſt him the ſaid *P. P.* lately brought, whereof the ſaid *P. P.* was quieted, and by verdict of his Countrey, whereof the ſaid *T. C.* was convict: and have you the moneys at my next County Court, to be holden at

at the Caſtle of Y. on Munday, &c. to ſatisfie the ſaid *P. P.* of his damages aforeſaid, and this, &c. given under the ſeal of my Office, &c.

Of a Scire facias.

IF a *Fieri facias* doe not iſſue out within a year and a day, after Judgment entered; it cannot be had, till there be a *Scire facias* firſt ſued out, to ſummon the Defendant to ſhew cauſe why execution ſhould not be done, and if now he neglect to anſwer, or cannot be found to be ſummoned, then a ſecond Judgment ſhall be given, that that Execution be done on the firſt Judgment.

If Judgment be given againſt a Teſtator, albeit it be within a year after the Judgment had, yet there muſt firſt iſſue out a *Scire facias*, againſt the Executor or Adminiſtrator (before Execution) to ſhew cauſe why it ſhould not be had.

Or if a man recover againſt a woman ſole, and ſhe become covert, *viz.* take a husband within the year and

and the day: then he that ſhall recover muſt have a *Scire facias* againſt the husband.

Scire facias, poſt diem & annum.

E. B. Eſquire Sheriff, &c. greeting. Yo. 1. Whereas *W. F.* of late in the Court of the aforeſaid County, by Judgment in the ſaid Court, of the County aforeſaid, held at the Caſtle of *T.* on Munday the tenth day of *Febr.* 1654. before the Suitors of the ſaid Court, recovered againſt *G. L.* aſwell a certain debt of *xxxij s.* which the ſaid *W F.* in the ſame Court, recovered againſt him, as 13 *s.* and 10 *d.* which to the ſaid *W F.* in the ſame Court was adjudged for his damages which he ſuſtained by the occaſion of the detaining of the debt, of which he is convicted. For as by the proceedings from thence in the ſame Court reſiding, notwithſtanding the manifeſt Execution of the aforeſaid Judgment remaines to be done as by inſinuation, the aforeſaid *W F.* hath

hath recovered. And becauſe that I will that thoſe things which were in the ſaid Court be rightly done to demand due of the ſaid Judgment. Therefore I command you, that by honeſt and lawfull men of my Bayliwick, you give notice to the aforeſaid *G L.* that he be at the Caſtle of of *Y.* at my next County Court, there to be holden upon Munday the third day of *May* next to ſhew if he have any thing to ſay, or no, why the ſaid *W F.* ought not to have his levie or execution againſt him according to the force, form and effect of the ſaid recovery, if it ſeem expedient to him, and have you then and there the names of them, by whom you give him notice, and have this precept, &c. Given under the Seal of my office the fourth day of *April*, in the year of our Lord 1656.

Scire

Scire facias againſt an Executor, after Judgment againſt the Teſtator.

I. *E.* Eſquire Sheriff &c. greeting, Yo. ſſ. Whereas *N. N.* late in the County Court of the ſaid County held at the Caſtle of *Y.* on Munday, &c. before the then Sheriff of the ſaid County, by Judgment of the ſaid Court had recovered againſt *N N.* as well a debt of fourtie pounds, as twenty two ſhillings and two pence coſts, for his damages which he ſuſtained by reaſon of the detaining of the ſaid debt; wherefore he is convict, as appears by the procedings remayning in the ſaid Court. And whereas the execution of the ſaid Judgment yet remaineth to be done, and the ſaid *N N.* ſince the giving of the Judgment aforeſaid is dead, as by the intimation of the ſaid *R.* I am informed. And becauſe I am willing that thoſe things, which are rightly done in the ſaid Court, ſhould be duly put in Execution; I command you that by honeſt and lawfull men of the ſaid

County, you make it known to *F N.* Executrix of the Teſtament of the ſaid *N N.* that ſhe be at the next County Court to be holden for the ſaid County at the Caſtle of Y. on Munday, &c. to ſhew if ſhe have any thing, or know what to ſay, why the ſaid *R.* ought not to have his Execution againſt her of the debt and damages aforeſaid, to be levied of the goods and chattells which were of the ſaid *N N.* at the time of his death, and further to do and receive &c. Given under the Seal of my Office, &c.

Venire facias.

Yo. ſſ. *J. B.* Eſquire, Sheriff of the County aforeſaid to the Bayliff of the Hundred of *O.* or his Deputie greeting. I command you, and every of you, that you cauſe to come before me, or my lawfull Steward, by me appointed for the County Court, to be holden at the Caſtle of Y. on Munday, &c. All thoſe ſeverall perſons mentioned in the pannell hereunto annexed, to trie ſuch ſeverall iſſues between

between party and party, as ſhall then and there be given them in charge. And hereof you muſt not fail, as each of you will anſwer the contrary at your perills, together with this Precept. Given under the Seal of my Office, &c.

Or thus.

F. B. Eſquire, &c. Theſe are to require you the ſaid Bayliff, to cauſe to come twelve good and lawfull men of your Bayliwick, that they be and appear at the next County Court holden at the Caſtle of Y. on Munday, &c. next enſuing to try an iſſue joyned between *A B.* Plaintiff, and *C D.* Defendant, concerning a Plea of debt. (or as the caſe is) And this given, &c. Yo. ſi.

Subpœna, al. dict. a Warrant ad teſtificand.

F. B. Eſquire, Sheriff of the County aforeſaid, to *J. B. J. G.* &c. greeting, to you, and every of you I command, that (all excuſes and de- Yo. ſi.

layes being ſet appart) you and every of you be and perſonally appear at the next County Court holden at the Caſtle of Y. on Munday the tenth day of *June* next to teſtifie the truth according to your knowledge in a certain action there depending, between *A B.* Plaintiff, and *C D.* Defendant, on the part and behalf of the Plaintiff, in an action of debt. And hereof fail you not, under the forfeiture of 100 *l.* each of you. And this given under the Seal of my office the, &c.

A Precept upon a Proclamation.

No. ff. *I. B.* Eſquire Sheriff, &c. to the Bayliff of the hundred of *B.* and to his Deputies, greeting. By vertue of a Proclamation upon Exigent to me directed, I command you and every of you, that you or ſome of you make two ſeverall Proclamations. The one to be made at the generall quarter Seſſions of the Peace to be holden for the North-riding of the County of Y. And the other to be made at the Pa-

riſh

riſh Church after Divine ſervice, where the ſeverall perſons underwritten live, and that they and every one of them yeeld their bodyes to me the Sheriff of the ſaid County, where the exigent lyeth, to anſwer the perſon, at whoſe ſuite the Exigent is againſt them. And hereof fail not at your perill. Given under the Seal of my Office the 22th. day of *Auguſt* in the year of our Lord 1656.

At the electing of the Coroner, he is to be ſworn in Court, by the County Clark, for the due Execution of his Office. In this manner.

YOu ſhall ſwear, that you well and truly ſhall ſerve his Highneſs the Lord Protector and the Commonwealth in the Office of a Coroner: and as one of his Highneſſes Coroners of the County of Y. and therein you ſhall truly and diligently do, and accompliſh all and every thing and things appertaining to your Office, after the beſt of your cunning, wit, and power, both for the profit and good of the inhabitants within the

ſaid County, taking ſuch fees as you ought to take by the Lawes and Statutes of this Commonwealth, and no otherwiſe; So help you God.

A Warrant of Atturney.

To S D. *one of the Atturneys of the Connty Court, for the County of Y. &c.*

I *A B.* do hereby deſire you and do give you full power, licenſe and authority, to appear for me, and for, &c. in the ſaid Court on *Munday*, &c. in an action of debt, for &c. at the ſuite of *E D.* upon an Obligation conditioned for the payment of, &c. in which ſaid Obligation I ſtand bound as principall. And this ſhall be your ſufficient warrant in that behalf. In witneſs, &c.

A Deputation, for a Bayliff of an Hundred.

I *B.* Eſquire, Sheriff of the County of Y. to all Chriſtian people to whom

whom theſe preſents doth or may concern, greeting. Know ye that I the ſaid Sheriff, have deputed, conſtituted, and appointed *R. D.* of *A.* in &c. my lawfull Bayliff and Deputie within the Hundred of *B.* in the *North-Riding* of the County of Y. aforeſaid, to have and execute the ſaid Office of Bayliff within the ſaid Hundred, or elſewhere, within the ſaid County of Y. or as occaſion ſhall require it, during my pleaſure only and no longer: and to receive and take to my uſe all fees as well for Diſtreſs, Attachment, and Perquiſites of Courts, and other profits due and accuſtomed whatſoever to the ſaid Bayliwick belonging, or in any wiſe appertayning; And whatſoever my ſaid Bayliff ſhall lawfully execute and doe in his ſaid Office, I do hereby warrant, ratifie and confirme, as my own act and deed. In witneſs whereof I have hereunto ſet the Seal of my Office this ſeventh day of *July*, in the year of our Lord 1656.

Diſtringas

	s.	d.
Diſtringas or County-warrant,	0	8.
Bayliff fee for ſerving,	0	4.
Duc. tec.	0	8.
Fee to the Bayliffs for ſerving,	0	4.
Warrant of Atturney,	0	2.
A ſpeciall *Diſtringas*,	1	8.
Duc. tec. ſpeciall,	1	8
Writ of Juſticies,	2	6.
Precept upon the Writ,	2	4
Fee to the Bayliff for ſerving,	2	0.
A ſpeciall precept upon the Writ,	4	4.
Warrant of Atturney upon it,	0	4.
A Replevin,	2	4.
The Bond,	1	0.
A ſpeciall Replevin,	5	4.
Bayliffs fee for ſerving,	2	0.
Eſſoyne for every name,	0	4.
Drawing declaration.	1	0.
Imparlance,	1	0.
Coppy of the Declaration,	1	0.
Anſwer and allowing,	2	0.
Replication and allowing,	2	0.
Rejoynder and allowing, &c. ſo of the reſt,	2	0.
Rule,	0	4.
Default,	0	4.
Non-ſuite,	0	4.

Dividing

	s.	d.
Dividing a plaint, for every name that is divided,	0	4.
Subpœna, or warrant *ad teſtif.*	0	8.
Venire facias,	2	0.
If tryed for the *Habeas Corpora*	2	0.
Fee to the Bayliff,	2	0.
Judgment,	2	0.
Fieri facias,	2	0.
Bayliffs fee for executing,	2	0.
Al. fieri facias.	2	0.
Scire facias,	2	0.
Fee to the Bayliff for executing,	2	0.
Tranſcript upon a plaint,	1	8.
Tranſcript upon a Writ of Juſtic.	3	4.
Tolt,	1	2.
Precept upon an *Acced. ad cur.*	2	4.
Recordare allowing,	4	0.
Pone allowing,	4	10.
Writ of falſe Judgment allow.	6	8.
Superſedeas,	2	4.
Procedendo,	2	0.

The Order of Judges at the Assizes at York, the 24th. day of July, 1654. concerning Essoynes illegally returned into this Court.

WHereas of late Judgments have been surreptitiously obtained in this Court by reason of Essoynes unduely brought into the Court, by Bayliffs or their Deputies, and others, after Attachment of goods for appearance, which pretended Essoynes, being afterwards disavowed by the Defendants, have occasioned sundry complaints, and suites when the Defendants goods were taken in Execution, for preventing whereof, it is ordered upon advice and consultation had with the Judges of Assize at Y. this day, that henceforth no common Essoyne shall be entered and allowed by the Court to save a default, unless it be warranted in writing, under the proper hand-writing, or under the hand, Seal, or mark, of the Defendant, thereby specially authorized, the

De male vener.

the partie being the Eſſoyner to caſt ſuch Eſſoyne for him, and in his name; for the truth of which ſubſcription, or ſealing, the ſame Eſſoyne is to be ſworn in open Court, and no Eſſoyne is to be admitted, or received from henceforth being not affirmed and ſworn unto, and ſo entered upon the back of the Warrant of Attachment, which is to remain upon the file amongſt the rolls or proceedings of the Court, and if any other perſon (not being a Bayliff) ſhall be the Eſſoyner, he is to bring the like Warrant from the Defendant in writing as is aforeſaid, and be ſworn for the truth thereof, which is to remayn in Court as aforeſaid; And no Judgment ſhall be given where there is no other appearance but an Eſſoyn: Unleſſe the Eſſoine ſhall appear to be warranted as aforeſaid.

Some

Some ſelect Preſidents of Declarations and Pleadings incident and belonging to this Court.

Debt.

Executor againſt an Executor upon a bill.

County Court ſſ. E. *F.* Executor of the laſt Will and Teſtament of *J F.* deceaſed, by vertue of a Writ of Juſticies to the Sheriff of the County aforeſaid directed, by *J S.* his Atturney complains of *M W.* Executor of the laſt Will and Teſtament of *R W.* late of *T.* in the County of Y. husbandman deceaſed, otherwiſe called *R W.* late of *T.* of Y. Husbandman deceaſed, of a Plea, that he render unto him 7*l.* of, &c. which he unjuſtly detaines from him, &c. for that whereas the ſaid *R W.* in his life time, that is to ſay, the xx th day of, &c. year, &c. at the Caſtle of Y. in the County of Y. and within the liberty and Juriſdiction of this Court, by his bill obligatory,

gatory, ſealed with his Seal, and here in Court produced, bearing date the day and year aboveſaid, acknowledged himſelf to be indebted to the ſaid *J F.* in his life time, the whole and juſt ſum of 7 l. of &c. to be payd to to the ſaid *J F.* his Heirs, Executors, Adminiſtrators, or Aſſignes, upon the third day of *May* next enſuing the date of the ſaid bill; And for the payment thereof, the ſaid *R W.* then and there bound himſelf, his Executors, Adminiſtrators and Aſſignes. Nevertheleſſe the ſaid *R W.* in his life time, though often thereunto required the ſaid 7 l. to the ſaid *J F.* whilſt he was living, hath not paid, neither hath the ſaid *M W.* Executor of the laſt Will and Teſtament of the ſaid *R W.* after his death, payd the ſame to the ſaid *E F.* Executor of the laſt Will and Teſtament of the ſayd *J F.* to which ſaid *M W.*'s hands, came all and ſingular the goods and chattells which were the ſaid *R W.*'s in his life time, ſufficient to ſatisfie all the debts which the ſaid *R W.* at the time of his death owed to any perſon or perſons

ſons whatſoever, as alſo to ſatisfie th
ſaid *E. F.*'s debt; but the ſaid *R. W*
whilſt he lived refuſed to pay the ſam
to the ſaid *I. F.* in his life time, an
the ſaid *M. W.* likewiſe after th
ſaid *R. W.*'s death refuſed to pay th
ſame to the ſaid *E. F.* after the death
of the ſaid *I. F.* and ſtill refuſeth ſ
to do, and unjuſtly detains the ſame,
by reaſon whereof the ſaid *E. F.*
ſaith he is damnified 10 *l.* and there-
upon produceth this ſuit, &c.

And the ſaid *E. F.* produceth here
in Court, the ſaid letters teſtamenta-
ry, by which it appears the ſaid *E.*
F. to be Executor of the laſt Will
and Teſtament of the ſaid *I. F.* de-
ceaſed &c.

Upon a Bill to be paid at the day of marriage, and iſſue upon it.

Yo. ff. *T. N.* and *E.* his wife, Adminiſtra-
trix of the goods and chattels which
were of *I. B.* deceaſed, complains
by *S. D.* his Atturney of *I. H.* of
C. in the ſaid County gent. of a Plea
that

that he render unto them 5 *l.* which he unjuſtly detains, *&c.* for that whereas the ſaid *I. H.* (ſuch a day year and place) by his certain bill Obligatory, with his ſeal ſealed, and here in Court produced, the date whereof is the ſame day and year; For and in conſideration of one Gold-ring, with a certain Stone call'd a Diamond, in the ſame Ring fixed of the aforeſaid. *T. B.* in his life time received the day of the making of the aforeſaid bill, did acknowledge and grant, to and with the aforeſaid *T. B.* in his life time, that he the ſaid *I. H.* his Executors or Aſſigns, would pay or cauſe to be paid to the aforeſaid *T. B.* his Executors or Aſſigns, for the ſame Ring (at ſuch a day and time as he the ſaid *I. H.* ſhould be wedded or married: or at any other time after his marriage, whenſoever he ſhould be required by the aforeſaid *T. B.* his Executors, or Aſſigns, or by him that ſhould bring the ſaid bill, the ſaid ſumme of 5 *l.* to his or their uſe, the aforeſaid time to be paid: And the ſame *T. N.* and

E. in fact ſay, that the aforeſaid *I. H.* after the making of the ſaid bill, (to wit, ſuch a day, year, and place) within the Pariſh Church of *H.* did take to wife one *I. D.* by which the action did accrew unto the ſaid *T. R.* in his life, and to the ſaid *E.* after the death of the ſaid *T. B.* whilſt ſhe was ſole, and to the ſaid *T. N.* and *E.* after eſpouſalls between them celebrated to require and have of the aforeſaid *I. H.* the ſame 5 *l.* yet the aforeſaid *I. H.* although often required the aforeſaid 5 *l.* to the aforeſaid *T. B.* in his life time, or to the aforeſaid *E.* whilſt ſhe was ſole, to whom the adminiſtration of all the goods and chattels which were of the aforeſaid *T. B.* the time of his death (ſuch a day, year, and place,) was committed, or to the aforeſaid *T. N.* and *E.* after eſpouſalls between them celebrated, hath not rendred, but the ſame to render to them hath denyed, and the ſame to them the ſaid *T. N.* and *E.* as yet to render doth denie, and unjuſtly detain, whereupon they ſay they are damnified, and have

damage

damage to the value of 10 *l.* and thereupon they bring their action, *&c.* And they bring into Court here the letters of Adminiſtration, &c.

The Defendant pleads that he was within age at the time of the making of the Bill.

AND the aforeſaid *I. F.* by *R. F.* his Atturney, comes and defends the force and injury when &c. and ſayes that the aforeſaid *N.* and *E.* ought not to have their action aforeſaid againſt him, becauſe he ſaith that he at the time of the making of the Bill aforeſaid, was within the age of one and twenty years, and this he is ready to aver, whereupon he demands Judgment, whether the aforeſaid *N.* and *E.* ought to have their action aforeſaid againſt him, &c.

Replication.

Yo. ff. AND the aforeſaid *T N.* and *E.* ſay, that they by any thing before alledged, ought not to be debarred from having their action aforeſaid againſt the ſaid *J H.* becauſe they ſay, that the aforeſaid *J H.* at the time of the making of the bill aforeſaid, was of the full age of one and twenty years, and not within age, as the aforeſaid *J H.* hath above alledged, and this they pray may be inquired of by the Countrey; And the aforeſaid *J H.* in like manner: Therefore, &c.

Upon retainder for ſhooing of horſes, &c.

Yo. ff. A *B.* by *S D.* his Atturney complains of *C D.* of a Plea &c. for whereas the aforeſaid *C D.* (ſuch a day and year) at *S.* &c. retained the ſaid *A B.* to ſet on upon horſe feet, of the afore-

aforeſaid *C D.* fourty new Horſe-ſhoes, and to remove fourty Horſe-ſhoes, and to mend one paire of plow-Irons, and to make one fire-ſhovell, to take of the ſaid *C D.* for the ſetting on of the aforeſaid fourty new Horſe-ſhoes, and fourty romoves, xx*is.* and ſo of the other pareell to contract to be paid to the ſaid *A B.* when he ſhould be thereunto required, by vertue of which retayner, the ſaid *A B.* the ſaid fourty new Horſe-ſhoes, and fourty removes upon the Horſe-feet of him the ſaid *C D.* did ſet on, &c. by which action acrewed, &c. *Hil.* 37 *Eliz. Rot.* 517.

Upon an account.

E B. complaines of *T A.* of a Plea, that he ſhould render unto him 12 *l.* of &c. which ſhe owes, and unjuſtly detaines from him, for that whereas the third day of *May*, 1651. at, &c. the ſaid *E B.* and the ſaid *T A.* accompted together, for and concerning diverſe ſmms of money, then and County Court ſſ.

before that time due, and owing, by the ſaid *T A.* unto the ſaid *E B.* And upon that account, the ſaid *T A.* then and there did acknowledge himſelf to be in arreare and owing unto the ſaid *E B.* the ſum of 12 l. to be payd unto the ſaid *E B.* when he the ſaid *T A.* ſhould be thereunto requeſted. Yet notwithſtanding, &c.

Money lent by joynt partners for a certain time, and to be payd to the Survivour.

Yo. ſſ. R *K.* by, &c. complaineth of *W A.* Upon a Plea that he render unto him xx *s.* of lawfull Engliſh money, which he oweth unto him, and unjuſtly detayneth, &c. For that whereas the laſt day of *February* 1651. at the Caſtle, &c. the ſaid *R K.* and one *R W.* now deceaſed, being joynt partners of moneys and other commodities; did lend unto the ſaid *W A.* 3 l. of lawfull, &c. to be paid to them or the Survivour of them on Eaſter Monday then next following; of which ſaid 3 l. the ſaid *W A.* payd to

the

the ſaid *R K.* and *R W.* in his life time the ſum of fourty ſhillings, and there then remayned unpayd the ſum of xx *s.* ſince which, and about the Nativity of Chriſt 1652. the ſaid *R W.* dyed, and the ſayd *R K.* him ſurvived, whereby action doth acrew to the ſaid *R K.* alone to have and demand of the ſaid *W A.* the ſaid xx *s.* Notwithſtanding the ſaid *W. A.* though often thereunto requeſted the ſaid xx *s.* to the ſaid *R K.* hitherto hath not rendred, but the ſame to render hitherto hath refuſed, and yet doth refuſe, whereupon the ſaid *R K.* ſaith, that he is worſe, and hath damage to the value of *xxxix* s. and *xi*^{d}, And thereupon produceth this ſuite. &c.

For Rent in arreare.

R. *M.* by, &c. complaines of *H D.* of a Plea that he render unto him *xxx* s. of, &c. which he owes unto him, and unjuſtly detaines from him. For that the ſaid *R. M.* the tenth day of *Apr.* year, &c. at the Caſtle, &c. demiſed, granted, and to farme let Yo. ſ.

let unto the ſaid *H D.* one Cottage or dwelling houſe, one garth, and foure acres of arable land, Meadow or Paſture, with the appurtenances be they more or leſſe lying and being at *W.* in the County aforeſaid, to have and to hold the ſaid Cottage or dwelling houſe, garth, and arable land, Meadow or Paſture with the appurtenances, unto the ſaid *H. D.* and his Aſſignes, from the Annunciation of the bleſſed Virgin *Mary* commonly called Lady day, then laſt paſt, for and during the terme of three years then next following, fully to be compleat, finiſhed and ended, yeelding and paying therefore yearly rent, for the ſaid premiſes to the ſaid *R M.* for the firſt year of the ſaid three years, the rent of 3 *l.* preſent money, and in Land to be payd to the ſaid *R M.* and 3 *l.* 10 *s.* of &c. yearly to be payd to the ſaid *R M.* for the other two years reſidue of the ſaid terme, at the feaſt of S^t. *Michael* the Archangell, and the Annunciation of the bleſſed Virgin *Mary*, by even and equall portions. By vertue of which demiſe, the ſaid

H D.

H D. entred into the ſaid Cottage or dwelling houſe, and was and ſtill is poſſeſſed of the ſame: and becauſe *xxxv s.* for the half year rent ended at the feaſt of S^t. *Michael* the Archangell, in the year, &c. is in arreare and unpayd unto the ſaid *R M.* therefore an action doth accrew to the ſaid *R M.* to have and demand of the ſaid *H D.* the ſaid *xxxv s.* Nevertheleſſe the ſaid *H D.* although he hath been often required the ſaid *xxxv s.* the ſame to the ſaid *R M.* he hath hitherty denied to reſtore and pay, and as yet doth deny to reſtore and pay; to the damage of the ſaid *R M.* of *xxxix s.* And therefore he brings this ſuite, &c.

For Servants wages.

A W. by, &c. complaines of *R S.* of a Plea that he render unto him *xxiiii s.* of &c. which he owes unto him & unjuſtly deteyns from him. For that whereas the ſaid *J D.* that is to ſay, the day, year, &c. at the Caſtle, &c. retayned the ſaid *A W.* to ſerve the County Court. ſ.

the ſaid *J S.* in the place of a man-ſervant, till the feaſt day of S^t. *Martin* the Biſhop in Winter, then next to do and execute the lawfull occaſions, and commands of the ſaid *J S.* by the time aforeſaid, paying therefore the ſaid *A W.* *xii^li.* of, &c. which the ſaid *J S.* then and there payd to the ſaid *A W.* and alſo *xxiiii* s. more of, &c. for his ſallary, during the ſaid time, at the ſaid feaſt of S^t. *Martin* in the year, &c. aforeſaid. And the ſaid *A W.* in fact ſaith, that he according to the ſaid retainder, did ſerve the ſaid *J S.* in the place of a man-ſervant, and did, and executed the lawfull commands, and occaſions, of the ſaid *J S.* by the time aforeſaid, and that *xxiiii* s. for his ſalary for his ſaid ſervice by the time aforeſaid, due at the feaſt of S^t. *Martin* the Biſhop, in Winter, in the year &c. above mentioned, is yet arreare and unpayd by the ſaid *J S.* to the ſaid *A W.* by which an action accrews to the ſaid *A W.* to have and require of the ſaid *J S.* the ſaid *xxiv* s. Nevertheleſs the ſaid *J S.* though often required, &c.

For

For not ſetting forth of Tythes.

R. *H.* Farmer of all and ſingular, Yo. ff. the tythes of hay growing within the pariſh of *F.* in the County of Y. by vertue of a Writ of Juſticies, by *R N.* his Atturney) complaines of *T W.* upon a Plea that he render to him 6 l. of, *&c.* which he oweth to him & unjuſtly detaines. For that whereas the ſaid *T L.* the day, year, *&c.* at *F.* aforeſaid, in the County aforeſaid, *&c.* was poſſeſſed and occupied of and in four acres of Meadow in *F.* aforeſaid, and Pariſh aforeſaid, and being ſo poſſeſſed, he the ſaid *T W.* did then and there cut down the graſſe growing in and upon the ſaid four acres of Meadow, and two loads of hay there, coming to the value of 40 *s.* then and there did take and carry away, before he the ſaid *T W.* had ſet out, and ſevered the tythes, or tenth part thereof from nine parts of the ſame, or agreed for the ſaid tythes, or tenth part thereof which the ſaid *R.* againſt the form of the Statute in the fifth

fifth year of *E. 6.* in ſuch like caſe made and provided. Whereupon action doth acrew to the ſaid *R H.* to have and demand of the ſaid *T W.* the ſaid 6 l. (that is to ſay) the treble value of the ſaid hay ſo carryed away. Yet Notwithſtanding the ſaid *TW.* though often requeſted, &c.

Upon an award.

R H. by vertue, &c. by *E B.* his Atturney doth complain of *H S.* of a Plea that he render to him 10 l. of, &c. which he oweth him, and unjuſtly detayneth, &c. For that whereas the *xxv*th day of *A.* in the year, &c. at the Caſtle, &c. it was concluded & agreed betwixt the ſaid *H S.* on the one partie, and the ſaid *R F.* on the other partie, that they and both of them ſhould ſtand and abide, the order, dome and Judgment of *J D.* and *M L.* of all and every the ſuites, troubles, differences, debts, treſpaſs or whatſoever hath formerly been in any kinde of dealing betwixt them two from the beginning of the world,

to

to the day of the date of the ſaid writing, being the ſaid 25. day of *A.* or elſe one or either partie not ſtanding thereto, to forfeit to the other parties the ſum of 10 l. of, &c. And for confirmation thereof, they did both of them ſet to their hands and ſeales the day and year firſt above written, at the Caſtle aforeſaid, &c. as by the writing thereof, (ready to be ſhown to this Court) may appear. And whereas afterward, that is to ſay, the day, year, &c. at the Caſtle, &c. the ſaid *J D.* and *M L.* taking upon them the charge of the premiſes, by their order in writing, bearing date the ſame day and year, laſt above mentioned, and here in Court to be ſhown, did arbitrate, order and award, that the ſaid *R F.* ſhould deliver to the ſaid *H S.* one parcell of ſtarch then into the hands of the ſaid *R F.* and the bag wherein the ſtarch is put affirmed to be the goods of the ſaid *H S.* upon the ſight of the ſaid Order. And further, they did thereby order and award, that the ſaid *H S.* ſhould pay or cauſe to be payd to the ſaid

R F.

R F. upon the ſight of this order the ſum of fifty ſhillings of, &c. And that all thoſe ſuites, debts, treſpaſſes, or debates whatſoever from the beginning of the world untill the ſaid 25th day of *A.* the year, &c. ſhould utterly ceaſe, and have an end; or elſe the partie not ſtanding to the ſame to forfeit as in the ſaid Order is expreſſed, the ſum of 10 l. as by the ſaid award ſealed the ſaid day, year, &c. by the ſaid Arbitrators, and here in Court ready to be ſhown, may appear. And the ſaid *R F.* in fact ſaith, that though he hath performed all things in the ſaid award, on his part to be performed: yet the ſaid *H S.* hath not performed any thing in the ſaid award on his part to be performed. And namely for that the ſaid *H S.* hath not payd to the ſaid *R F.* upon the ſight of the ſaid Order, being the day, year, &c. at the Caſtle, &c. the ſum of 50 s. of, &c. whereby action doth accrew to the ſaid *R F.* to have, and demand of the ſaid *H S.* the ſaid 10 l. The ſaid *H S.* notwithſtanding, though often thereunto requeſted

queſted the ſaid 50 *s.* to the ſaid *R F.* hath not yet payd, but the ſame to pay &c.

For Atturney's Fees.

R. *A.* Gentleman, &c. by *T S.* his Atturney doth complain of *W P.* of a Plea, that he do render unto him 1 *l.* 17 *s.* 2 *d.* of, &c. which he doth owe unto him, and unjuſtly detaines from him; For that whereas the ſaid *W P.* the day, year, &c. at the Caſtle of Y. &c. did retayn him the ſaid *R A.* to be the Atturney of him the ſaid *W P.* in the County Court holden at the Caſtle of Y. in the County of Y. before the ſuitors of the ſame Court to proſecute as the Atturney of him the ſaid *W P.* for him the ſaid *W P.* in a certain action, in the name of him the ſaid *W P.* againſt one *T C.* of a Plea of Debt, from the ſaid day and year, &c. ſo long as ſhould pleaſe both parties, taking for his fees and paines in that behalf ſuſtayned every Court day, in which he the ſaid *R A.* ſhould be the Atturney Yo. ff.

Atturney of him the ſaid *W P.* in the ſaid cauſe 2 *s.* of lawfull, &c. beſides his other reaſonable charges, and expenſes by him the ſaid *R A.* in and about the proſecution of the ſaid action to be layd out. By vertue of which ſaid retainer the ſaid *R A.* was the Atturney of him the ſaid *W P.* for eight Court dayes then next following; and that he did lay out to the Clark and other offices of the ſaid Court, in and about the proſecution of the ſaid ſuite 1 *l.* 1 *s.* 2 *d.* of, &c. which together with the 16 *s.* for his fees for the ſaid Court dayes, doth in all amount to 1 *l.* 17 *s.* 2 *d.* of &c. By reaſon whereof an action doth accrew to the ſaid *R A.* to have and recover of him the ſaid *W P.* the ſaid 1 *l.* 17 *s.* 2 *d.* yet the ſaid *W P.* although often requeſted the ſaid, &c. to the ſaid *R A.* he hath not rendred; but to render the ſame to him he hath altogether hitherto refuſed, and doth yet refuſe: to the great damage of him the ſaid *R A.* Whereupon he ſaith, that he is damnified, and hath damage to the value of *xxxv* s. And thereupon he

he brings this ſuite, &c.

For Coales promiſing to pay ſo much as they ſhould reaſonably be worth.

I. by &c. complaines of *R R.* of a Plea of treſpas upon the caſe, &c. for that whereas the ſaid *R R.* the day, year, &c. at the Caſtle, &c. In Conſideration that the ſaid *J J.* at the requeſt of the ſaid *R. R.* had bargained and ſold unto the ſaid *R R.* eleven wains loads of coales; he did aſſume upon himſelf, and to the ſaid *J J.* then and there faithfully promiſe, that he the ſaid *R R.* ſo much as the ſaid eleven wain loads of coales ſhould be reaſonably worth unto the ſaid *J J.* when he ſhould be thereunto requeſted would well and faithfully pay and content. And the ſaid *J J.* in fact ſaith, that the ſaid eleven wain loads of coals was reaſonably worth *xxxiii* s. of &c. Yet notwithſtanding the ſaid *R R.* not regarding his promiſe, and aſſumption aforeſaid, but ſubtilly and craftily

craftily intending to defraud and deceive the ſaid *J J.* in the premiſes, although he hath been often requeſted the aforeſaid *xxxiii* s. unto the ſaid *J J.* he hath not payd, but the ſame unto him to pay altogether hitherto he hath refuſed, and as yet doth refuſe, contrary to his promiſe and aſſumption aforeſaid; to the great damage of the ſaid *J J.* wherefore he ſaith, he is worſe, and hath damage to the value of *xxxix* s. And thereupon produceth ſuite, &c.

For a Horſe ſold warranted to be ſound.

Yo. fl. WM. by *R B.* his Attorney, complaines of *R K.* of a Plea of treſpaſs upon the caſe. That whereas the ſaid *W M.* the day, and year, *&c.* at the Caſtle, *&c.* did buy of the ſaid *R K.* one black gelding for 5 l. of, &c. he the ſaid *R K.* then and there did warrant the ſaid Gelding to be whole, ſound, and not infected with any diſeaſe or infirmitie: And the ſaid *W M.* in fact ſaith,

ſaith, that the ſaid Gelding was then ſo infected with the glaunders, and divers other diſeaſes and infirmities, as the ſaid Gelding was nothing worth to the ſaid *W M.* to the damage of the ſaid *W M.* of *xxxix* s. And thereupon he brings this action, &c.

For a Horſe lent promiſing to redeliver him, &c.

J R. complains of *J A.* of a Plea of treſpaſs upon the Caſe, &c. That whereas the ſaid *J A.* the day, year, &c. at the Caſtle, &c. In conſideration that the ſaid *J R.* then and there at the inſtance and requeſt of the ſaid *J A.* had lent and delivered unto the ſaid *J A.* one Bay Nag of the price of 6 l. to be redelivered to the ſaid *J R.* when after that he ſhould be thereunto requeſted, the ſaid *J A.* aſſumed upon himſelf, and to the ſaid *J R.* then and there faithfully promiſed, that he the ſaid *J A.* the ſaid Bay Nag unto the ſaid *J R.* when after he ſhould be thereunto requeſted, would faithfully Yo. 6.

reſtore and deliver, and alſo *xii*^{d}. of, &c. for every day wherein the ſaid *J A.* ſhould labour or ride the ſaid Nag, to the ſaid *J R.* when after that he ſhould be thereunto requeſted, well and faithfully would pay & content. And the ſaid *J R.* in fact ſaith, that he the ſaid *J A.* fourty dayes did labour or ride the ſaid Nag. Nevertheleſs the ſaid *J A.* his promiſe and aſſumption aforeſaid not regarding, but craftily and ſubtilly intending, to defraude and deceive the ſaid *J R.* in the premiſes, although the day, year, &c. aboveſaid, as alſo at diverſe dayes and times after that, and before the Commencement of this ſuite, at the Caſtle, &c. he hath often been requeſted to deliver the ſaid Nag, to the ſaid *J R.* But the ſaid Nag to reſtore or deliver, to the ſaid *J R.* he hath not delivered, and the ſame to reſtore or deliver he hath altogether refuſed, and yet doth refuſe, no nor fourtie ſhillings for the labour or hire of the ſaid Nag, the ſaid fourty dayes, to the ſaid *J R.* hath not paid, but the ſame to pay he likewiſe hath refuſed, and ſtill

ſtill doth refuſe; contrary to his promiſe and aſſumption aforeſaid; to the great damage of him the ſaid *J R.* of, &c.

For Adgyſting of beaſts.

T. B. complaines of *J S.* upon a Plea of treſpaſs upon the Caſe; For that whereas the day, year, &c. at the Caſtle, &c. In Conſideration that the ſaid *T B.* at the ſpeciall inſtance and requeſt of *J D.* in his life time, would depaſture and feed two Oxen of the ſaid *J D.* in the ground of the ſaid *T B.* in *A.* within the ſaid County, &c. From the ſaid day, year, &c. unto the end of one month next following, he the ſaid *J D.* in his life time, did aſſume upon himſelf, and to the ſaid *T B.* then and there faithfully promiſed, that the ſaid *J D.* as much as the ſaid depaſturing, and feeding, ſhould be reaſonably worth to the ſaid *T B.* when he the ſaid *J D.* ſhould be thereunto requeſted well and truly would content and pay. And the ſaid *T B.* in fact ſaith, that he from the ſaid day, yeare, &c. unto the end of one County Court. ſt.

one moneth then next following did depaſture, and feed the ſaid two Oxen of the ſaid *J D.* in the ſaid ground of the ſaid *T B.* in *A.* aforeſaid, and that the ſaid depaſturing and feeding was reaſonably worth *xii* s. of &c. Yet notwithſtanding the ſaid *J D.* in his life time, and the ſaid *J S.* after the death of the ſaid *J D.* the promiſes and aſſumptions of the ſaid *J D.* not regarding, but endeavouring, and fraudulently intending, the ſaid *T B.* in this behalf craftily and ſubtilly to deceive and defraud: the ſaid *xii* s. or any penny thereof, to the ſaid *T B.* as yet hath not payd, nor for the ſame any way contented, but the ſame to pay the ſaid *J D.* in his life time, and the ſaid *J S.* after his death hath refuſed, and as yet doth refuſe: although the ſaid *J D.* in his life time, afterwards, that is to ſay, the day, year, &c. at the Caſtle, &c. was thereunto requeſted; whereupon the ſaid *T B.* ſaith, he is worſe, & hath damage to the value of *xxx* s. and thereupon produceth ſuit, &c.

For

For curing a wound.

A. S. complains of *W. H.* in &c. for Yo. ff.
that whereas the ſaid *W. H.* the day, year, &c. at the Caſtle &c. being then and there ſore wounded in his throat and back, with the ſtab of a knife; In conſideration that the ſaid *A. S.* at the ſpeciall inſtance and requeſt of the ſaid *W. H.* would to the beſt of his art and skill of a Chirurgeon, endeavour to cure the wound of the ſaid *W. H.* and take pains and labour therein, he the ſaid *W. H.* did aſſume upon himſelf, and to the ſaid *A. S.* then and there faithfully promiſed, that he the ſaid *W. H.* ſo much as the ſaid endeavour, labour and pains of him the ſaid *A. S.* to cure the ſaid wounds of the ſaid *W. H.* and his charges and pains therein ſhould be reaſonable worth, unto the ſaid *A. S.* when he ſhould be thereunto required, would well and faithfully pay and content. And the ſaid *A. S.* in fact ſaith, that his endeavour, labour and pains to cure

the ſaid wounds of the ſaid *W. H.* and his charges therein, was reaſonably worth 30 *s.* of *&c.* Notwithſtanding the ſaid *W. H.* not caring for his promiſe and aſſumption aforeſaid, but endeavouring and fraudulently intending him the ſaid *A. S.* in this behalf, craftilie and ſubtily to deceive and defraud, &c.

For a Laborours hire.

Yo. ff. MR. complains of *G N.* in an &c. for that whereas the ſaid *G. N.* the day, year, &c. at &c. In conſideration that the ſaid *M. R.* then and there at the requeſt of the ſaid *G. N.* would cut down certain whins of the ſaid *G. N.* then growing and being in a cloſe called the *O.* lying in the Town-ſhip of *H.* in the County aforeſaid, and make the ſame whins into whin-kids or faggots, the ſaid *G. N.* aſſumed upon himſelf, and to the ſaid *M. R.* then and there faithfully promiſed, that he the ſaid *G. N.* as much as would pleaſe or content him the ſaid *M. R.* for

for his work and labour, in cutting down and kidding the ſaid whins in the cloſe aforeſaid, as long as the ſaid *M. R.* ſhould ſo work and labour for the ſaid *G. N.* when afterwards that he ſhould be thereunto requeſted would well and faithfully pay and content. And the aforeſaid *M. R.* doth aver and ſay, that accordingly, he did cut down and kid whins for the ſaid *G. N.* in the cloſe aforeſaid by the ſpace of one whole day then next after, and that he well deſerved 12 *d.* of &c. for his wages, for his day-work, and labour, and that 12 *d.* is a reaſonable ſumme to pleaſe and content him for his ſaid day-work & labour, in cutting down and kidding of the ſaid whins as aforeſaid; yet notwithſtanding the aforeſaid *G. N.* his promiſe and aſſumption aforeſaid, little minding or regarding, but craftilie and ſubtlely intending to deceive and defraud the ſaid *M. R.* in the premiſſes, although &c.

In

In conſideration that the Plantiff would deliver unto one E. L. *certain mercerie wares, if he did not pay for them, the Defendant would.*

Yo. ff.

P. *B.* Eſq; by vertue of a Writ, &c. doth complain of *H. S.* of an action, &c. for that whereas the day, year, &c. at the Caſtle, &c. In conſideration that the ſaid *P. B.* (being then and yet a Mercer of the Citie of Y. would deliver unto *E. L.* for the uſe of the ſaid *E. L.* ſuch parcells of Mercery wares, as he the ſaid *E. L.* ſhould take up and receive of the ſaid *P. B.* he the ſaid *H. S.* did aſſume upon himſelf, and to the ſaid *P. B.* then and there did faithfully promiſe, that if the ſaid *E. L.* ſhould not pay and ſatisfie the ſaid *P. B.* for the ſaid wares at ſuch rates and prizes, as the ſaid *E. L.* and the ſaid *P. B.* ſhould agree upon, that he the ſaid *H. S.* would well and truely pay and ſatisfie unto the ſaid *P. B.* all ſuch moneys as the ſaid *E. L.* and *P. B.* ſhould agree upon for the rates and prizes of the

the ſaid wares, betwixt the ſaid day, year, &c. and May-day then next after; And the ſaid *P. B.* in fact ſaith, that afterwards, that is to ſay, the day, &c. and year aforeſaid, at the Caſtle &c. aforeſaid, the ſaid *E. L.* did take up and receive of the ſaid *P. B.* Mercerie wares, hereafter following (that is to ſay) 7. yards of black Flanders-ſearge, for 38 *s.* and five yards of *Italiana*, for 26 *s.* of lawfull, &c. both which rates and prizes were then and there agreed upon, between the ſaid *E. L.* and the ſaid *P. B.* and did amount to the ſumme of 3 *l.* and 4 *s.* of &c. which ſaid ſumme of &c. or any penny thereof the ſaid *E. L.* hath not yet paid, or ſatisfied to the ſaid *P. B.* Notwithſtanding the ſaid *H. S.* his promiſe and aſſumption aforeſaid, not regarding, but endeavouring, &c.

Slander for calling the Plantiff Thief, &c.

E. R. complains of *G. S.* of a Plea, &c. Yo. ſ. whereas the ſaid *E. R.* is a good, true, faithfull

faithfull, and honeſt member of this Common-wealth of England, and of a good name, report, credit, converſation, condition, reputation and eſteem, as well amongſt his neighbours (and faithfull members of this Common-wealth) as alſo other honeſt perſons to whom the ſaid *E. R.* hath been known from the time of his birth, and hath been noted, eſteemed, and reported, and without any ſtain, blemiſh, or ſuſpition of theft, falſehood, deceit, fraud or of any other notorious crime, he hath carryed and behaved himſelf, all his life time free, untouched, and not in the leaſt wiſe ſuſpected. Nevertheleſs the aforeſaid *G. S.* not being ignorant of the Premiſſes, but out of his meere mallice, evilly intending, not onely the good name, report, opinion, credit, eſteem and reputation, of the ſaid *E. R.* to hurt, wound, detract, & utterly to deſtroy, but alſo to bring the ſaid *E. R.* into trouble, vexation and infamie, the day, year, and place, &c. in the County aforeſaid, falſe, faigned, mallicious and ſcandolous words, to

the

the ſaid *E R.* and of the ſaid *E R.* in the preſence and hearing of many honeſt and credible men, openly and publiquely, did ſpeak and publiſh in theſe words following. Thou (meaning the ſaid *E R.* art a thiefe,) and I (meaning the aforeſaid *GS.*) wil prove thee (meaning the ſaid *E R.*) a thiefe, and a horſe-ſtealing thiefe from thy cradle. By reaſon and means of which falſe, feigned, ſcandalous, and malicious words declared and publiſhed as aforeſaid, the aforeſaid *E R.* is much hurt, wounded and damnified in his good name, report, credit and reputation aforeſaid; in which before that time with very many honeſt and faithfull members of this Commonwealth he was reputed, and alſo the ſaid *E R.* into great diſcredit, ſuſpicion and infamy, with many faithfull and honeſt perſons is thereby induced and brought, ſo that divers perſons, who before that time did accompany, reſpect, and much eſteem the aforeſaid *E R.* themſelves from the company, and ſociety of the ſaid *E R.* do now withdraw, and abſent themſelves,

ſelves, and further with the aforeſaid *E R.* to intermeddle, buy, ſell, or commerce have altogether refuſed, and ſtill do refuſe, to the great damage of the ſaid *E R.* of *xxx* s. And therefore he hath brought this ſuite, &c.

For ſlanderouſly calling the Plaintiff Banckrupt.

Yo. ff. *E B.* complaines of *E M.* in a Plea of treſpas upon the Caſe; For that, whereas the ſaid *E B.* a good, true faithfull, and honeſt member of this Commonwealth, and like a good, honeſt, and faithfull member of the ſaid Commonwealth, now and from the time of his nativity hitherto, without any ſpot or ſuſpition of deceit, corruption, bankrupt, or fraud, or any one of them, hath carryed, behaved, and governed himſelf, and of good name, fame, credit and eſtimation, truſt, and carryage, of great ſubſtance of riches, always hitherto hath been reported, and held, and honeſtly, juſtly, and faithfully, in all his interminions, and buſineſſes with whomſoever

ever had and made throughout the whole time aforeſaid, himſelf hath carryed and behaved. And whereas, he the ſaid *E B.* the day, year, &c. and by the ſpace of ten years laſt, and continually afterwards hitherto the art myſtery or faculty of an Apothecary of the City of Y. exerciſed & uſed; his living and maintenance of himſelf and his family, by exerciſing & uſing the art, myſterie or facultie through the whole time aforeſaid, well plentifully and ſufficiently had gotten and gained, and alſo divers great ſums of money, by lawfully buying and ſelling, merchandiſing and bargaining, upon his credit of divers wares, and other things belonging to the art, myſterie, or faculty of him the ſaid *E B.* to the better maintenace of him and his family, and to the great increaſe of his riches, juſtly and honeſtly through the whole time aforeſaid had obtained, and all and ſingular ſums for what things or merchandizes whatſoever by him or of any other perſons throughout the ſaid time, upon credit had bought or received, or by

any

any way due, he the ſaid *E B.* to any ſuch perſon to him the ſaid *E B.* ſo giving credit according to the contract and agreement betwixt them concorded and made, without fraud or delay had payd by the parcell; of which ſaid premiſes, and alſo by reaſon of his honeſt carriage, towards all perſons, he the ſaid *E B.* the chief credit, and good opinion amongſt all his neighbours, and amongſt very many honorable perſons, and other people of the ſaid commonwealth to whom he was known he deſervedly had and gained to himſelf. The ſaid *E N.* notwithſtanding not ignorant of the premiſes, but the hap and condition aforeſaid, of the ſaid *E B.* malicioufly deviſing, imagining, and fraudulently intending the ſaid ſtate, name, fame, credit, truſt and eſtimation of the ſaid *E B.* to hurt, deprive and to cauſe him, the ſaid *E B.* to fall into want, diſcredit and poverty, and to be accepted and reputed of ſuch an evill carriage, and alſo for a Banckrupt, and a man of no credit amongſt all the faithfull members of this Commonwealth,

monwealth, that they all from the company of him the ſaid *E B.* as from the conſort of a Banckrupt perſon, or man worthy of no credit, might altogether withdraw themſelves, and forbear with the ſaid *E B.* to bargain, ſell or deal they might altogether give over, afterwards (to wit) on the day year, &c. aforeſaid at Y. aforeſaid theſe falſe, ſcandalous and opprobrious Engliſh words following of him the ſaid *E B.* in the preſence and hearing of diverſe faithfull members of this Commonwealth then and there preſent and hearing, falſely, maliciouſly and ſcandalouſly with a loud voyce ſaid, proclaimed, pronounced and publiſhed (to wit *E B.* meaning the ſaid *E B.* plaintiff) is a rogue and a Banckrupt, and I (meaning himſelf the ſaid *E N.* now defendant) will prove him one. By reaſon of the ſpeaking and proclaiming of which ſaid falſe ſcandalous and opprobrious words, he the ſaid *E B.* not onely in his good name, fame, credit, truſt and eſtimation aforeſaid, is greatly hurt and ſcandaliſed, but alſo hereby doth

doth ſtand deprived, and utterly ſpoyled, that his ſaid neighbours and other faithfull members of this Commonwealth with him the ſaid *E B.* to buy, merchandize, bargain, or any way to meddle, or deal, do altogether diſtruſt and refuſe him the ſaid *C D.* for a conſumer, waſter and detayner of other mens riches and eſtates, they repute and ſuppoſe him to be by the ſaid *E N.* not onely in exerciſing and maintayning of his art, myſtery or faculty is very much hindered, and his eſtate and ſubſtance is very much weakned and conſumed, but alſo hath been conſtrained and compelled to lay out and ſpend diverſe great ſums of money in clearing himſelf, of the premiſes aforeſaid layd upon him, for the recovering of his good name, fame, credit, truſt and eſtimation aforeſaid, whereupon the ſaid *E B.* ſaith, that he is made worſe, and hath damage to the value of 200 l. And thereupon produceth this ſuite, &c.

In conſideration that the Plaintiff would marry E R. the Defendant promiſed to make him worth 200 *l.*

W. P. &c. complaines of *P. W.* of Yo. ff. a Plea, &c. That whereas the 14 E. 4. day, year, &c. at the Caſtle, &c. fo. 6. there was a communication between 15 E. 4. the ſaid *W. P.* and the ſaid *P. W.* of fo. 32. and concerning the ſaid *W. P.* taking 17 E. 4. fo. 5. to wife one *E R.* the daughter of one *S R.* of &c. County, &c. the ſaid *P W.* in conſideration that the ſaid *W P.* at the ſpeciall inſtance and requeſt of the ſaid *P W.* according to the lawes and cuſtomes of England by the conſent of the ſaid *S R.* would marry and take to wife the ſaid *E R.* upon himſelf did aſſume and to the ſaid *W P.* then and there did faithfully promiſe, that he the ſaid *P W.* would make him the ſaid *W P.* worth 200 *l.* of, &c. and better, immediatly after the ſolemnization of the marriage of the ſaid *W P.* and the ſaid *E R.* And the ſaid *W P.* indeed ſaith, that in hopes of the performance of the pro-

miſe and aſſumption of the ſaid *P W.* and at the ſpeciall inſtance and requeſt of the ſaid *P W.* afterwards (that is to ſay,) the day, year, &c. at, &c. aforeſaid the ſaid *W P.* according to the lawes and cuſtomes of England by the conſent of *S R.* did marry and take to wife the ſaid *E R.* Nevertheleſs the ſaid *P W.* little regarding his promiſe and aſſumption aforeſaid, but contriving and fraudulently intending craftily and ſubtilly to deceive and defraud the ſaid *W P.* in this behalf, hath not made the ſaid *W P.* worth 200*l.* and better, albeit afterwards (that is to ſay,) the day, year, &c. a tale aforeſaid by the ſaid *W P.* he hath been thereunto required, but hath refuſed hitherto to do the ſame, and ſtill doth refuſe, to his damage of, &c.

Trover

Trover and Converſion.

J B. by Writ &c. complaines of *J C.* in an action of treſpas upon the Caſe. For that whereas the ſaid *J B.* the day, year, &c. at the Caſtle of &c. was poſſeſſed of one gray mare, of the price of ten pounds, as of his own; and being thereof ſo poſſeſſed, the ſaid *J B.* the day, year, &c. aforeſaid, the ſaid mare out of his hands & poſſeſſion was caſually loſt, which ſaid mare afterwards (that is to ſay,) the day, year, &c. at the Caſtle, &c. came to the hands and poſſeſſion of the ſaid *J C.* ſufficiently knowing the ſaid mare to be the mare of the ſaid *J B.* and to him of right to belong; and deviſing to deceive the ſaid *J B.* of the ſaid mare; though often thereto required, the ſaid mare to the ſaid *J B.* hath not reſtored; but the ſaid *J C.* afterwards (that is to ſay) the day, year, &c. the ſaid mare to his own uſe and profit converted and diſpoſed, to the great loſſe of the Yo. ff.

ſaid *J B.* By reaſon whereof he ſaith, he is damnified *xx* l. Aed therefore commenceth this ſuite, &c.

Detinue.

Yo. ff. *T V.* by vertue of a Writ, &c. by *E B.* his Atturney complains of *R. M.* upon a plea, that he render unto him goods and chattells to the value of *xx* l. of, &c. which he unjuſtly detaineth from him, &c. For that whereas the ſaid *T V.* the day, year, &c. at the Caſtle, &c. did deliver to the ſaid *R M.* one Cow, colour black, of the value of 5 l. one gray Nag of the value of *x* l. and 14. yards of French green broad cloth of the value of 5 l. to be ſafely kept, and to the ſaid *T V.* where he the ſaid *R M.* ſhould be thereunto requeſted, to be delivered. Yet notwithſtanding the ſaid *R M.* although thereunto requeſted, the goods & chattells aforeſaid to the *T V.* as yet hath not redelivered, but the ſame to redeliver, hitherto hath contradicted, and as yet doth contradict, and unjuſtly deteines, whereupon the

the ſaid *TV.* ſaith, he is worſe and hath damage to the value of xxx^l. And thereupon produceth ſuite, &c.

Treſpaſs.

For breaking down the Plaintiffs ſtall, being ſet up in the market.

AO. complains of *WC.* of a Plea of treſpas. That the aforeſaid *W C.* the day, year, &c. at *S.* in the County aforeſaid, and within the liberty and Juriſdiction of this Court, made an aſſault upon him the ſaid *AO.* and his cloſe and houſe, that is to ſay) one ſtall there in the market ſet up, broke and entered, and his wares (that is to ſay) dreſt leather, to the value of 5 ^l. put upon his ſtall aforeſaid, diſplaced, cut down, and ſpoyled, and other enormious things to him did, to the great damage of the ſaid *AO.* whereupon he ſaith, that he is the worſe, and hath damage to the value of ten pound. And thereupon he brings his ſuite, &c. County Court ff.

For breaking the Plaintiff's cloſe, &c.

Yo. ff. *J A.* complaines of *T S.* of a Plea of treſpaſs, &c. for that the ſaid *T S.* the day, year, &c. a cloſe of the ſaid *J A.* called *C.* at *S.* in the County, &c. broke and entred, and the graſs of the ſaid *J A.* then and there, being of the value of ten ſhillings, with certain goods and chattells (that is to ſay) with Kine, Oxen Steeres, Horſes, Naggs, Marts, Hoggs, and Sheep, did depaſture, eat up, tread under-foot, conſume and ſpoyle, continuing the ſaid treſpaſs from the ſaid day, year, &c. aforeſaid, during the time of one whole month then next following, at diverſe dayes and times, and other harmes to him did to the great loſſe of the ſaid *J A.* by reaſon whereof he ſaith he is damnified, xxxix *s.* And therefore commenceth this ſuite, &c.

For

For a dog-biting a mare ſo that ſhe dyed.

H S. complaines of *W P.* in an acti- Yo. ff.
on of treſpas, for that whereas the ſaid *W P.* the day, year, &c. at, &c. one Mare of the ſaid *H S.* of the price of ten pound then and there being found did beat, wound and chaſe, and alſo with a dog did bite; ſo that by reaſon of the beating, chaſing, wounding, bruiſing and biting of the ſaid Mare, the ſaid Mare then and there dyed. And other harmes to him did to the great damage of, &c.

For chaſing of hoggs with doggs, &c.

A B. complaines of *C D.* of a Plea Yo. ff.
of treſpas, wherefore he did chaſe two hoggs of him the ſaid *A B.* at *M.* found with certain doggs, inſomuch by ſetting on thoſe doggs, to bite the hoggs aforeſaid: That by that chaſing and biting of the doggs aforeſaid, the aforeſaid hoggs of the price of fourty

fourty ſhilling dyed; And other enormities, &c.

For paſturing of ſheep in a rotten paſture, by reaſon whereof they dyed.

Yo. ff. *A B.* complaines of *C D.* of a Plea of treſpas. Wherefore the cloſe of him the ſaid *A B.* at *L.* did break, and his 260. ſheep of the price of 40 *l.* there lately found did take, and did chaſe them into a certain corrupt paſture within the village aforeſaid, out of malice, detayning thoſe ſheep ſo long upon the paſture aforeſaid, that thoſe ſheep by corruptneſs of that paſture, becoming rotten and infected, dyed; and other enormities, &c.

For digging and plowing the Plaintiffs ground, and taking away his corne.

Yo. ff. *T S.* complaines of *G G.* in an action of treſpas. For that whereas the ſaid *G G.* the day, year, &c. at, &c. the cloſe of the ſaid *T S.* being

one

one acre of arable land lying in *B.* broke and entred, and the ſoyl of the ſaid cloſe with his plow did dig and rip up. And afterwards, that is to ſay, the day, year, &c. aforeſaid at *B.* aforeſaid, and within the Juriſdiction aforeſaid for that the ſaid *G G.* the aforeſaid, cloſe of the ſaid *T S.* broke and entred, and his corne, (that is to ſay) two wain loads of oates, there lately cut down of the value of xxx *s.* of his the ſaid *T S.* took and carryed away. And other enormious things to him did do, &c.

For taking away a Poſt.

A B. complaines of *C D.* of a Plea of treſpas, &c. wherefore he did breake the cloſe of the ſaid *A B.* at *F.* and did take and carry away a certain new Poſt of him the ſaid *A B.* there in the ſoyle put and faſtned to the value of xxx *s.* And other enormities, &c. Yo. ff.

Treſpas

Treſpaſs and Aſſault.

Yo. ff. *J. H.* complaines of *J S.* in an a-
. ction of treſpas and aſſault, &c. for that the ſaid *J S.* the day, year, &c. at the Caſtle, &c. made an aſſault and a fray upon the ſaid *J H.* and did then & there beat, wound, and evill intreat him, ſo that he was deſpaired of his life, and other harmes to him did to the great loſſe of the ſaid *J H.* By reaſon of which he ſaith, he is damnified xxx *s.* And therefore commenceth this ſuite.

Aſſault upon one at under-age.

Yo. ff. *W E.* by *A S.* his guardian, and
next friend, by favour of this Court, is admitted to proſecute for the ſaid *W E.* becauſe he is within the age of one and twenty years, by vertue of a Writ of Juſticies by *T W.* his Atturney complaines of *T C.* in an action of treſpas and aſſault, &c. For that the ſaid *T C.* the day, year, &c. at the Caſtle, &c. in and upon the ſaid

ſaid *W E.* an Aſſault and affray did make, &c. as in the other.

Upon a Replevin.

A *B.* complaineth of *T L.* in a Plea wherefore he took the goods of the ſaid *A B.* and them did unjuſtly detaine, contrary to ſureties and ſafe pledges, &c. For that whereas the aforeſaid *T L.* the day, year, &c. at *S.* in a place there called *R.* in the County, &c. took of the goods of the ſaid *A B.* that is to ſay ſeven Kine of the price of xxx l. And the ſame did unjuſtly detain againſt the ſureties and ſafe pledges, &c. whereupon the ſaid *A B.* ſaith, he is worſe, and hath damage to the value xxxix s. And therefore he hath brought this ſuite, &c. County Court ſ.

Pleadings.

He owes him nothing.

AND the ſaid *J A.* comes and defends the force and injure when, &c. and ſaith that the ſaid *J O.* ought not County Court ſ.

not to have his ſaid action againſt him, becauſe he ſaith, that he the ſaid *I. A.* owes nothing to the ſaid *I. G.* in manner and form, as the ſaid *I. G.* hath declared againſt the ſaid *I. A.* and for that he puts himſelf upon the Countrey, &c.

He made no ſuch promiſe.

AND the ſaid *H. B.* comes and defends the force and wrong when, &c. and ſaith that he did not aſſume & promiſe to the aforeſaid *T. R.* in manner, and for me as the aforeſaid *T. R.* againſt him complaineth: and of this he putteth himſelf upon the Countrey.

Replication.

Yo. ff. AND the ſaid *T. R.* ſaith that he by any thing before alleadged from his action aforeſaid, ought not to be debarred: for that he ſaith that the aforeſaid *H. B.* did aſſume upon himſelf, and promiſe in manner and form, as by the Declaration aforeſaid is alleadged and ſet forth: and this he prayes may be inquired by the Countrey: and the ſaid *W. B.* likewiſe, therefore &c.

He

He made no ſuch promiſe within ſix years.

AND the ſaid *W. B.* comes and defendes the injury when, &c. and ſaith that the ſaid *W. B.* did not within the ſpace of ſix years before the commencement of this ſuit aſſume upon himſelf, or promiſe to pay to the ſaid *T. B.* the ſumme of 30. *s.* in manner and form, as the ſaid *T. B.* above againſt him the ſaid *W. B.* doth complain, and upon this he putteth himſelf upon the Countrey, &c. Yo. ff.

Never Executor.

AND the aforeſaid *E. H.* comes and defendes the force and injurie when &c. and ſaith that the aforeſaid *T. C.* ought not to have his action againſt him, becauſe he ſaith that he never was the Executor of the laſt Will and Teſtament of the aforeſaid *R. H.* neither did adminiſter of any of the goods or chatels which were of the ſaid *R. H.* at the time of his death: as Executor of the laſt Will Yo. ff.

and

and Teſtament, of the aforeſaid *R. H.* after the death of the ſaid *R. H.* and this the ſaid *E. H.* is ready to verifie, whereupon he demandeth Judgment, whether the ſaid *T. C.* ought to have or maintain the ſaid action againſt him, &c.

Fully Adminiſtred.

Yo.ff. AND the aforeſaid *M. A.* comes and defends the injurie and wrong when, &c. and ſaith that the aforeſaid *A. B.* his action afore aid ought not to have againſt him, becauſe he ſaith he hath fully adminiſtred of the goods and chattels of the aforeſaid *T. A.* at the time of his death, and he no other goods nor chattels hath of the aforeſaid *T. A.* at the time of his death to be adminiſtred, nor had at the time of the entrey of this plaint of the ſaid *A. B.* nor at any time after: and this he is ready to aver, wherefore he prayeth Judgment; whether the aforeſaid *A. B.* his action aforeſaid againſt him ought to have, &c.

Replica-

Replication.

AND the ſaid *A. B.* ſaith, that he by any thing before alleadged from his action aforeſaid, ought not to be debarred, becauſe he ſaith that the aforeſaid *M. A.* the day of the commencement of this ſuit, (to wit) the day, year, &c. at the Caſtle aforeſaid: and within the juriſdiction aforeſaid, had diverſe goods and chattels which were the aforeſaid *T. A.* at the time of his death, and afterwards in his hands to be adminiſtred to the value of the debt aforeſaid, wherefore the debt aforeſaid to the ſaid *A. B.* ought to be ſatisfied; and this he requires may be inquired of by the Countrey, &c. and the ſaid *M. A.* likewiſe, &c. Yo. ff.

Not guilty.

AND the ſaid *G. W.* comes and defends the wrong and injurie when, &c. and ſaith, that he is not guiltie of the treſpaſs aforeſaid, as Yo. ff.

the

the ſaid *I. C.* hath complained againſt him: and of this he putteth himſelf upon the Countrey, &c.

Bar by within-age.

Yo.ff. AND the ſaid *H. C* comes and defends the injurie when, &c. and ſaith that the ſaid *W. B.* his action aforeſaid againſt him ought not to have: for he ſaith that he at the time of the making of the ſaid writing Obligatory, was within the age of one and twenty years; And this he is ready to veriffie, whereupon he demandeth Judgment, if the ſaid *W. B* his action aforeſaid againſt him ought to have &c.

Payment upon a bill, and a releaſe produced.

Yo.ff. AND the ſaid *I. S.* comes and defends the injurie when, &c. and ſaith that the ſaid *I. W.* ought not to have his action aforeſaid againſt him the ſaid *I. S.* for he ſaith that the ſaid *I. W.* after the making of

of the ſaid bill, and the commencement of this ſuit (that is to ſay the day, year, &c. at the Caſtle, &c. the ſaid *I. W.* did acknowledge and confeſs himſelf to be fully ſatisfied and content of the ſaid ſumme of 5*l.* in the ſaid bill mentioned, and thereupon did acquit and releaſe him the ſaid *I. S.* of and from all actions, which the ſaid *I. W.* might have againſt him the aforeſaid *I. S.* by reaſon of the making of the aforeſaid bill, and this he is ready to verifie, whereupon he prayeth Judgment, if the ſaid *I. W.* ought to have his action aforeſaid againſt him, &c.

Free-hold.

AND the ſaid *H. S.* comes and defends the force and injurie when, &c. and ſaith that the ſaid *W. B.* his action aforeſaid againſt him ought not to have or maintain, becauſe he ſaith that the cloſe aforeſaid called *T.* at *F.* in the Declaration above mentioned, in which the treſpaſs aforeſaid is ſuppoſed to be

done, is, and at the time of the ſaid treſpaſs ſuppoſed to be done is, and was the onely ſole free tenement or free hold of the ſaid *H. S.* by reaſon whereof the ſaid *H. S.* did break, and enter into the ſaid cloſe called *T.* and the corn and graſſe there growing and being, with his feet did tred down and conſume, and other corn graſſe and hay being in the ſaid cloſe, with his horſes, mares, oxen and kine, did eate, tread down and conſume, continuing the ſaid treſpaſs as in the Declaration is above ſpecified, as was lawfull and well pleaſed him ſo to do: and this he is ready to verifie and prove: whereupon he requires Judgment; if the ſaid *W. B.* his action aforeſaid againſt him ought to have, &c.

No action to cauſe one to render an account, will lie in this Court.

Yo. ff. AND the ſaid *G. F.* in proper perſon comes and ſaith, that the ſaid *C. B.* his ſaid action againſt the ſaid *G. F.* in this Court ought not to have or maintain: for that the ſaid

C. B.

C. B. in an action to render an account, &c. wherefore the ſaid *G. F.* demandeth Judgment, whether this Court will take Cognizance of the ſaid action, &c.

In arreſt of Judgment.

AND the aforeſaid *R. M.* ſaith, Yo. ff. that the verdict aforeſaid given againſt him, of the part of the ſaid *M. S.* ought not to ſtand or proceed, becauſe he ſaith that the Declaration aforeſaid, and the matter therein contained, is not ſufficient in Law to give and maintain the aforeſaid action againſt him, by which he requires Judgement: and that the aforeſaid plaint and verdict to be quaſhed and accounted nothing, And that the aforeſaid Plantiff may receive nothing by his plaint and verdict aforeſaid, &c.

Conditions performed.

AND the ſaid *W. G.* cometh and defendeth the force and wrong when, &c. and deſires to hear the Yo. ff.

ſaid writing, and it is read to him &c. he deſires alſo to hear the Condition of the ſaid writing, and it is read to him in theſe words, (that is to ſay) the Condition of this Obligation, &c. (recite the Condition) which being read and heard, the ſaid *W. G.* ſaith that the ſaid *C. G.* his action aforeſaid againſt him ought not to have, becauſe he ſaith, that the Articles in the Condition aforeſaid above-mentioned, were made at *Y.* aforeſaid, in &c. day, year, &c. aforeſaid, between the ſaid *C. G.* by the name of *C. G.* of *A.* in the ſaid County gent. on the one partie, and the ſaid *W. G.* by the name of *W. G.* of the ſame Town and County yeoman, on the other partie, whoſe other part ſigned with the ſeal of the ſaid *C. G.* the ſaid *W. G.* doth bring here in Court, whoſe date is the ſame day and year, firſt, &c. (recite all the Articles throughout) and the ſaid *W. G.* doth ſay, that he hath performed and kept all and ſingular the covenants, grants, articles, clauſes, ſentences and agreements whatſoever in the ſaid Arti-

cles

cles ſpecified, on his part to be obſerved, performed, fullfilled and kept, according to the form and effect of thoſe Articles: and this he is ready to maintain, whereupon he prayes Judgment; If the ſaid *C.G.* his action aforeſaid againſt him ought to have, &c.

Replication.

AND the ſaid *C. G.* ſaith that he, by any thing before alleadged, ought not to be debarred from having his ſaid action againſt the ſaid *W.G.* becauſe proteſting that the ſaid *W. G.* hath not performed or kept any covenants, grants, articles, clauſes, ſentences, or agreements in the ſaid articles ſpecified on his part to be performed or kept, as the ſaid *W. G.* above by pleading hath alleadged; for plea the ſaid *C.G.* ſaith, that the ſaid *W. G.* did not, &c. (recite the breach) according to the form and effect of the ſame Articles: and this he is ready to verifie, whereupon he prayeth Judgment, and his Yo. ff.

debt aforesaid, together with his damages, by occasion of detaining that debt, to him to be adjudged, &c.

Rejoynder.

Yo. ff. AND the said *W. G.* saith, that he did (recite here that he did perform the breach the Plantiff assigned) according to the form and effect of the said Articles: and of this he puts himself upon the Countrey, and the said *C. G.* likewise, &c.

Detain he doth not.

AND the said *R. S.* comes and defends the force and wrong when &c. and saith he doth not detain from the said *R. L.* the chattel aforesaid, nor any parcell thereof in manner as the said *R. L.* hath above declared against him: and of this he putteth himself upon the Countrey, &c.

Bar by a generall acquittance.

WHen, &c. his action ought not to have, &c. becauſe he ſaith, that after the making of the writing aforeſaid (that is to ſay) the day, year, &c. the Plantiff by his certain bill of acquittance, which the ſaid Defendant ſigned with the ſeal of the ſaid Plantiff, here in Court produceth, the date whereof is the ſame day and year he acquitted and diſcharged him the ſaid Defendant, by name of, &c. of all actions, plaints, demands, debts, accounts and debates for plaint: and in his executed & aſſigned, from the beginning of the World untill the day of the date of the ſaid Bill: and this &c. if Judgment, &c. Yo. ff.

Replication.

THe Plantiff ſaith that he ought not to be barred, &c. becauſe he ſaith that the aforeſaid Bill of acquittance is not his deed: & this he prayeth *&c.* Yo. ff.

Juſtification of ſcandalous words.

AND, &c. when, &c. and ſaith that the ſaid *G. L.* his action aforeſaid againſt him ought not to have, for that he ſaith, that before the ſpeaking of the pretended ſcandalous words in the ſaid Declaration mentioned, (that is to ſay) the day, year, &c. at, &c. the ſaid *G. L.* one weather-ſheep to the value of 10 *s.* of &c. of the goods and chattels of the ſaid *H. A.* in the ſaid Declaration mentioned, then and there being found, feloniouſly did ſteale, take and carry away, contrary to the publick peace; By reaſon whereof the ſaid *F. G.* afterwards, (that is to ſay) the ſaid day, year, &c. at, &c. the pretended ſcandalous words in the ſaid Declaration mentioned, did ſay, affirm and declare to the ſaid *G. L.* (that is to ſay) thou (meaning the ſaid *G. L.*) art a Thief and ſtole *H. A.* Sheepe: and this he is ready to verifie, whereupon he demandeth Judgment; if the ſaid *G. L.* his action aforeſaid againſt him ought to have, &c.

Ten-

Tender of amends in Replevin. County Court ff.

AND the ſaid *H.* ſaith, &c. the juſt taking of, &c. ought not to avow, becauſe he ſaith, that after the aforeſaid time of the taking of the Cattell aforeſaid in the aforeſaid place, in which, &c. and before the day of the iſſuing forth of the preceept of Replevin, of him the ſaid *H.* (that is to ſay the day, year, &c. aforeſaid, at *W.* aforeſaid, he the ſaid *H.* offered *xii d.* to pay the ſaid *W.* and *I.* to the uſe of the ſaid *W.* for the damage of the ſaid *W.* which he ſuſtained by occaſion of the treſpaſs aforeſaid, which the cattel aforeſaid, in the aforeſaid two acres of Land made, which ſaid *xii d.* were ſufficient amends for the treſpaſs aforeſaid, which the catle aforeſaid in the ſaid two acres of Land made; which ſaid *xii d.* the aforeſaid *W* and *I.* then and there wholly refuſed to receive of ſaid *H.* and this, *&c.*

Part of the debt paid, The reſidue tendred before Suit, and refuſed.

AND, &c. when, &c. and ſaith that the aforeſaid *I. G.* ought not Yo. ff.

to

to have or maintain his ſaid action againſt him: becauſe he ſaith, that the ſaid *I. A.* the day, year, &c. before the beginning of this action, well and faithfully paid to the ſaid *I. G. xx s.* part of the above mentioned debt, in the ſaid Declaration ſpecified (that is to ſay) at *B.* aforeſaid, and within the juriſdiction of this Court; And as to the 5 *s.* 6 *d.* the reſidue of the debt, in the ſaid Declaration ſpecified, the ſaid *I. A.* further ſaith, that he afterwards; that is to ſay, the day, year, &c. aboveſaid before the commencement of this action, at *B.* aforeſaid tendred to the ſaid *I. G.* the ſaid 5 *s.* 6 *d.* which ſaid 5 *s.* 6 *d.* the ſaid *I. G.* then and there refuſed to accept of; and this the ſaid *I. A.* is ready to prove, and demands Judgment of the Court; if the ſaid *I. A.* ought to have his ſaid action againſt him, &c.

Replication.

Yo. ff.

AND the ſaid *I. G.* as to the plea of the ſaid *I. A.* as to the ſaid 20 *s.* parcell of the debt aforeſaid ſaith that he by any thing before alleadg'd,

1. *part. non ſol.*

ought

ought not to be barred from having his ſaid action againſt him, for he ſaith that the ſaid *I. A.* did not pay the ſaid *xx s.* to the ſaid *I. G.* as the ſaid *I. A.* above hath alleadged: and this he prayes may be inquired of by the Countrey, and the ſaid *I. A.* likewiſe, &c.

And as to the ſaid plea of the ſaid *I. A.* as to the ſaid 5 *s.* 6 *d.* reſidue of the ſaid debt, and the ſaid *I. G.* ſaith that the ſame plea of the ſaid *I. A.* in manner and form aforeſaid pleaded, and the matter therein contained is inſufficient in the law, to bar the ſaid *I. G.* from having his ſaid action againſt the ſaid *I. A.* and that he to the plea aforeſaid, in manner and form aforeſaid pleaded, needeth not, nor is bound by the Law, of the land to anſwer: whereupon for want of a ſufficient plea in this behalf, the ſaid *I. G.* prayeth Judgment, and the ſaid 5 *s.* 6 *d.* reſidue of his debt aforeſaid together with his damages, by reaſon of the detaining of that debt to him to be adjudged, &c. 2. *Morat in lege.*

Not

Not his Deed.

AND, &c. when, &c. And ſaith that he ought not to be charged with the ſaid debt, by vertue of the writing aforeſaid; becauſe he ſaith that the ſaid writing is not his deed. And of this he putteth himſelf upon the Countrey, And the ſaid *A.* likewiſe, &c.

By threats.

AND, &c. when, &c. And ſaith that the ſaid *A.* ought not to have his ſaid action againſt him, becauſe he ſaith, that the ſaid *A.* at the time of the making of the ſaid writing, at *N.* aforeſaid did impoſe upon the ſaid *B.* ſuch and ſo great threats of his life, and mayheming of his body to be inflicted on him, unleſs he would make and ſeale unto the ſaid *A.* the ſaid writing; that he the ſaid *B.* did then and there make unto the ſaid *A.* the ſaid writing for fear of thoſe threats, And this he is ready to aver, whereupon he prayeth Judgment, if the ſaid

ſaid *A.* ought to have his ſaid action againſt him &c.

Replic.

AND the ſaid *A.* ſaith he by any thing before alleadged, ought not to be barred from having his ſaid action, becauſe he ſaith that the ſaid *B.* at the time of the making of the ſaid writing aforeſaid, was of his own power at large; And did make to the ſaid *A.* the ſaid writing of his meere and voluntary will; And not for fear of threats, as the ſaid *B.* hath above alleadged. And he prayeth, that this may be inquired by the Countrey. And the ſaid *B.* likewiſe, &c. Yo. ff.

By hardneſſe of impriſonment.

AND &c. when, &c. And ſaith, &c. becauſe he ſaith that at the time of making of the ſaid writing he was impriſoned by the ſaid *A.* and other of his Covin, that is to ſay at *N.* aforeſaid, and there in priſon detained untill the ſame *B.* by force and hardneſſe Yo. ff.

neſſe of that impriſonment, had then and there made to the ſaid *A.* the ſaid writing. And this he it ready to aver, whereupon he prayeth Judgment, &c.

Replic.

Yo. ſſ. AND the ſaid *A.* ſaith, that he, &c. becauſe he ſaith, that the ſaid *B.* at the time of making of the ſaid writing, was of his own right at large, and out of priſon, and did of his meere and voluntary will make to the ſaid *A.* the ſaid writing, and not by force and hardneſſe of impriſonment, as the ſaid *B.* above hath alleadged. And this he prayeth may be inquired of by the Countrey; And the ſaid *B.* likewiſe, &c.

The Aſſault made by the Plaintiff, &c.

Yo. ſſ. AND, &c. when, &c. And as to the treſpas and aſſault aforeſaid above ſuppoſed to be done, the ſaid *J R.* ſaith that the ſaid *R W.* his action aforeſaid againſt him ought not to have, becauſe

Son. aſſault de meaſn.

cauſe he ſaith, that the aforeſaid *R W.* the day, year, &c. aforeſaid upon him the ſaid *J R.* at the Caſtle, &c. did make an Aſſault, and him would have beaten, wounded, and evill intreated, by which the ſaid *J R.* himſelf againſt the aforeſaid *R W.* did then and there defend; And ſaith, that if any evill to the ſaid *R W.* then and there happened, was of the proper aſſault of him the ſaid *R W.* And in defence of him the ſaid *J R.* And this he is ready to verifie, whereupon he prayeth Judgment, if the aforeſaid *R W.* his action aforeſaid, againſt him ought to have, &c.

Replic.

AND the foreſaid *R W.* ſaith, that he by any thing before alledged, from having his action aforeſaid, ought not to be debarred, becauſe he ſaith, that the aforeſaid *J R.* the day, year, &c. aboveſaid, at, &c. in his declaration aforeſaid above ſpecified, of his own proper injury, and without ſuch cauſe by the ſaid *R W.* above alledged Yo. ſſ.

alledged upon him the ſaid *R W.* did make an aſſault, and him did beat, wound, and evill intreat, ſo that of his life he did deſpaire, againſt the peace of the Lord Protector that now is; As the ſaid *R W.* above againſt him hath complained; And this he prayeth may be inquired of by the Countrey, And the ſaid *J R.* likewiſe, Therefore, &c.

The Defendant pleadeth, the Plaintiff within age, to bring his action: And ſhould have brought it by Guardian, and not by Attorney.

AND, &c. when, &c. And ſayes, that the aforeſaid *J R.* ought not to have his action aforeſaid againſt him, becauſe he ſayes, that the aforeſaid *J R.* the day and year in the Declaration aforeſaid ſpecified (to wit) the day, year, &c. the day of, the iſſuing forth of the Writ of Juſticies of him the ſaid *J R.* that is to ſay, the day, year, &c. was within the age of one and twenty years, And that the aforeſaid *J R.* declared againſt him

him the ſaid *P C.* in the plaint aforeſaid by his Atturney, whereas by the due forme of Law, he ought to have declared by his Guardian; And this he is ready to aver, whereupon he prayes Judgment, whether the aforeſaid *J R.* ought to have his action aforelaid againſt him, &c.

N THE


30
69
APR

THE TABLE.

A

ACcount. 27
Accedeas ad Curiam. 66
What Actions may be brought in the County Court. 13
What Actions will not lye in this Court. 7
Within what time Actions must be brought. 14
Who may bring Actions, and who not. 15
Adjournment. 35
Amerciament. 7
Answer what. 23
Appearance. 17
Arbitrament. 26
Attorneys. 12

B.

BAyliffs how punishable for misdemeanors. 39

Bayliffs what they are. 36

C.

County Court when instituted. 3
Why instituted. 6
No Court of record. 5
Court how to be kept. 31
County Clarks office. 7
Court, what. 21
Continuance what. 22
Challenge of Jurors. 29
Consultation, a writ. 58
Coroners office in this Court. 10

D.

Debt. 26, 27
Debt against Executors or Administrators. 26
Declaration what, &c. 18
Demise. 27
Detinue. 27
Deputation for a Bayliff of an hundred. 102
Distress, &c. 36
Duc. tec. 18

E.

Essoyne what. 18
Exigent and Proclamation how to be proclaimed. 11

Execution, and what Goods may be taken upon it. 47

F.

Fine. 7
Freehold. 28
Fieri facias. 90
Fieri fac. against an Executor. 91
Fi. fac. for costs, upon a Non-suite. 92
Fi. fac. upon a Verdict for the Defendant. 93
The Table of Fees. 104

G.

Generall issues upon severall actions. 25

I.

Imparlance. 22
Issue. 25
Jurors, who may be challenged. 29
Justicies, a Writ. 80
Judiciall proces. 90

M.

Modo & forma, in a Declaration, where necessary & where not. 19

N.

Non suite. 21
Non sum informatus. 24
Non-age. 26
Nil dicit. 24

O.

Obligation, &c. 25
Obligation upon a Replevin. 86
Office of the County Clerk. 7
Office of a Coroner in this Court. 10
Oath of the Coroner. 101
Order of the Judges concerning Essoynes illegally returned. 106

P.

Pleas specially to be pleaded. 25
Nota Pleas. 28
Pledges. 17
Proceedings of the Court. 17
Proclam. and Exig. how to be proclaimed. 11
Prohibition, a Writ. 58
Procedendo, a Writ. 58
Processe in the Court. 77
Precept upon an acced. ad cur. 67
Precept upon a Proclamation. 100
Precept upon a Writ of Justic. 80

R.

Rejoynder what. 23
Rent. 26
Replevin, &c. 50, 81
Rule, what. 23
Return of Exig. 78
Return of Proclam. 76

Return of a Recordare. 54
Return of a Pone. 54
Return of the Writ for the election of a Coroner. 71
Return of a Writ of false Judgement. 59

S.

SHire, the originall, &c. 1
Sheriffs, &c. idem
Slander. 27
Suitors Judges. 6
Surrejoynder what. 24
Scir. fac. 94
Scir. fac. post diem & annum. 95
Scir. fac. against an Executor, after Judgment against the Testator. 97
Subpœna ad Testif. 99

T.

TRespass. 27
Trespass damage feasant. 27
Tolt, a precept. 88

V.

VIcount unde. 2
Verdict, &c. 30
Venire fac. 98

W.

WArrant of Attorney. 102
Warrantie. 27

Wither-

Withernam a precept. 83
Woman covert. 26

Declarations.

In Debt.

EXecutor againſt an Executor. 108
Upon a bill to be payd at the day of Marriage, and iſſue upon it. 110
Upon retainer for ſhoeing a horſe, &c. 114
Upon an accompt. 115
Money lent by joynt partners for a certain time, and to be payd to the Survivor. 116
For rent in arreare. 117
For ſervants wages. 119
For Tythes. 121
Upon an award. 122
For Atturneys Fees. 125

Caſe.

FOR *Coales, promiſing to pay ſo much as they ſhould be reaſonably worth.* 127
For a horſe ſold, warranted to be ſound. 128

For a horſe lent, promiſing to redeliver him, &c. 129
For adgiſting of beaſts. 131
For a Chirurgion for curing a wound. 133
For a laborers hire. 134
In conſideration that the Plaintiff would deliver unto one E L. certain mercery wares, if he did not pay for them, the defendant would. 136
Slander for calling the Plaintiff theef. 137
For ſlanderouſly calling the Plaintiff Bankrupt. 140
In conſideration that the Plaintiff would marry E. R. the Defendant Promiſed to make him worth two hundred pounds 145
Trover and Converſion. 147
Detinue. 148

Treſpaſs

For breaking down the Plaintiffs ſtall being ſet up in the market. 149
For breaking the Plaintiff's cloſe &c. 150

For a dog biting a mare, so that she dyed. 151
For Chasing of Hoggs with Doggs &c. 151
For pasturing Sheep in a rotten pasture, by reason whereof they dyed. 152
For digging and plowing the Plaintiffs ground, and taking away his Corn. 152
For taking away a Post. 153
Trespass and assault. 154
Assault upon one at under-age. 154
Assault upon a Replevin. 155

Pleadings.

Answers, Replications, Rejoynders &c.

HE owes him nothing 155
He made no such Promise and *Replication.* 156
He made no such promise within six years. 157
Never Executor. 157
Fully Administred, & Rep. 158,159
Not guilty. 159
Barr, by within age 160
Payment upon a Bill, and a Release produced 160

Freehold

Freehold 161
No action to cause one to render an Account willy in this Court. 162
In arrest of judgment 163
Conditions performed, and Repl. and Rejoynder 165
Detayn he doth not 166
Barr by a general Accquittance and Repl. 167
Justification of scandalous words 168
Tender of amends in Replevin. 159
Part of the debt paid, the residue tendered before suit, and refused, and Repl. 169, 170, 171.
Not his Deed 172
By Threats and Repl. 172
By hardness of imprisonment and Repl. 173, 174
The Assaul made by the Plaintiff and Repl 174, 175
The Defendant pleadeth the Plaintiff within age to bring his Action, and should have brought it by Guardian, and not by Attorny 176

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